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THE DEMISE OF THE FRENCH CONSTITUTION OF 1875

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French constitutional theory, on the basis of extensive national experience, distinguishes between revolutions from below—elementary ground-swells among the masses which sweep irresistibly over the nation and destroy all constitutional obstacles—on the one hand, and revolutions from above, by *coup d'état* of a constituted organ, either a legislative body or a governmental agency, on the other hand. In the latter case, an effort is made to connect the new régime with the preceding order by what constitutional ropes, or even threads, are still available. This habit has created, in spite of frequent upheavals in the first half of French constitutional life since 1789, a strong sense of constitutional tradition and legal conservatism.

The events of July, 1940, may amount to a full-fledged revolution, but not a revolution in the common sense of the word, that is, a ground-swell rising from below. When France adopted the authoritarian form of government, no fascist mass party, today the indispensable prerequisite of popular upheavals, was in existence. It was a *coup d'état* from above, a deliberate act of the defeated military leaders and their political advisers—in short, a skillfully engineered political stratagem. The politicians among the group must have been well aware of the character of the Constitution as the supreme law of the land, capable of being abrogated only by a legislative act of equal rank.[1] The men who carried France into fas-

[1] See A. Esmein and H. Nézard, *Eléments du droit constitutionnel* (7th ed., Paris, 1921), Vol. I, p. 597: "*La constitution écrite étant une loi et même une loi supérieure et même immuable, ne devait jamais pouvoir être abrogée que par une nouvelle loi constitutionnelle, rendue dans la forme voulue.*"

cism are lawyers and soldiers of the old régime inured to democratic legality and remote from the supine disregard for constitutional forms inherent in genuine revolutionaries. To most of the parliamentary representatives, observance of legal forms was congenital. Even if some members of the Chamber and Senate had fascist leanings—and they were relatively few—the majority were men whose political careers had progressed in the climate of democratic and constitutional government. Even if they were thrown off balance by the stunning events of defeat and surrender, they were unable to forsake their past. Adoption of fascism as a style of government was imposed upon them by what they believed to be necessity and the will of the victors. Possibly a good deal of realistic calculation entered into their resolve, at least subconsciously, that conformity with Italian political practices might prepare the road to a future Latin *bloc*, as a counterweight of Nazi control in new Europe. Moreover, no new leaders were taking it upon themselves to convert France to fascism. In the German Reichstag of 1933, no less than 296 Nazi members, all fanatically devoted to the *Fuehrer* principle, constituted the militant spearhead of a vast revolutionary movement. But no avowed fascist party sat in the French legislative assemblies, elected as far back as 1936, when fascism in France seemed to have hardly any chance, in spite of the *Croix de Feu* and M. Doriot.

Finally, a fascist revolution needs a fascist leader. The charisma of true leadership, from whatever roots it may spring, was conspicuous by its absence in this quaint "revolution." The French, once they shall have recovered their national quality of self-irony and introspection, will be the last to contend that the mantle of Caesar flows easily from the stooped shoulders of an octogenarian general, or from those of a sly politician. When France needed a Gambetta (Georges Mandel seems to have been cut for that rôle), she found only her Hindenburg in the person of Marshal Pétain, mummified in the prestige of Verdun; whereas M. Laval is at best the von Papen of the French fascist era, the stirrup-holder for the coming man on horseback.

These observations—and they could be multiplied—help to explain why the transformation of democratic France into an authoritarian state followed the traditional procedure of constitutional revision prescribed by the constitution of 1875. It is justifiable, therefore, to comment on the events in the light of French

republican constitutional law and constitutional jurisprudence, fitting the facts into the existing frame of the constitutional order.[2]

1. *Previous Amendment of the Constitution of 1875.* It is common knowledge that the constitution of 1875 is not a single document, but rather a series of *lois constitutionnelles*,[3] supplemented by what French constitutional jurisprudence calls "organic laws"—that is, statutes concerning constitutional arrangements though not sheltered by the superior sanctity of the *lois constitutionnelles* proper, and hence amendable by the process of ordinary legislation. It is also common knowledge that the constitution as enacted in 1875 after prolonged debates was considered only as an emergency solution, in due course to be replaced by a more elaborate, better drafted, and more homogeneously conceived instrument. In spite of its admittedly transitory character, only three amendments were added to the constitution during sixty-five years.[4] In 1879, by repealing the clause which made Versailles the obligatory seat of the government, the way was cleared for transferring the government to Paris. A more comprehensive constitutional reform occurred in 1884, when, in addition to other minor changes, the institution of life senators was abolished. Moreover, the immutability of the republican form of government was inscribed into the constitution. Finally, an amendment of August 30, 1926, stabilized the French currency by providing for an autonomous department of the treasury for the debts, to which certain revenues were assigned beyond the reach of Parliament. Poincaré resorted to the exceptional method of constitutional amendment in a merely budgetary matter only for the psychological purpose of restoring confidence.

As a matter of record, the French have been very reticent in using the amending powers—more so than any other country in a

[2] In absence of official source materials, newspaper reports must be relied upon. Of particular value has been the information drawn from the *Neue Zürcher Zeitung* and the semi-official organ of the Vichy government, *Le Petit Dauphinois*. Their accuracy cannot be verified and has, therefore, to be assumed. But even on this tentative basis, discussion of the subject seems worth while. French constitutional doctrine is evolved from a number of the most authoritative treatises on French constitutional law.

[3] Laws of Feb. 24, 1875 (obsolete with the exception of Arts. 8 and 9); of February 25, 1875; of June 21, 1879 (of only secondary importance); of Aug. 14, 1884 (the latter added only a new clause to the law of Feb. 25, 1875), but "de-constitutionalized" a number of others.

[4] See M. Deslandres, *Histoire constitutionnelle de la France*, Vol. III: *L'avènement de la Troisième République; la Constitution de 1875* (Paris, 1937), p. 513 ff.

similarly extended period. Not a few proposals for constitutional reform submitted to one or the other of the Chambers was pigeonholed in the committees or rejected. The constitution of 1875 was practically the same when abolished as when enacted, with the exception of changes in the composition of the Senate. As in other states, constitutional progress took to the more subtle ways of constitutional conventions. The intrinsic reason for this conservativism among a people reputed as fickle was the fact that the Senate, outnumbered in the National Assembly, was naturally reluctant to entertain proposals of revision. The rareness of constitutional amendments testifies both to the sense of political balance of the French and to the sanity of the frame of government under the Third Republic.

Nobody, however, would deny that the French political system needed reform. The last effort for constitutional revision, undertaken by Gaston Doumergue in 1934, after the Sixth of February, was aimed at strengthening the powers of the executive by redeeming for the *président du conseil* (prime minster) the right of dissolution of the Chamber, deemed obsolete since the *Seize Mai*, and by depriving Parliament of the right to decree new expenditures. Both proposals constituted an approximation to British parliamentarism. But the French people, twice bitten and thrice shy, refused to agree to what appeared the opening wedge for a return of *governement personnel*.

It would be beyond the scope of this discussion to support the thesis that the disintegration of the Third Republic, observed by many during the last decade, was much more apparent than real. Shifty cabinets, generally taken as symbols of parliamentary chaos and political dry rot, were offset to a large extent by the extreme stability of the administration. As in Germany before 1918, the collapse of the Third Republic appears much more as a breakdown of the military caste, dragging down with it the morale of the nation, than as resulting from inadequacy of constitutional arrangements.

2. *Constitutional Amendment and Representative Government.* That the Third Republic was a representative and not a cryptoplebiscitary democracy is demonstrated by the fact that the sovereignty of the legislative bodies was not tempered by the requirement of popular participation in the revision process,[5] not even in

[5] See Joseph-Barthélemy and Paul Duez, *Traité de droit constitutionnel* (Paris, 1933), p. 887.

the indirect form of making the revision an issue in the preceding electoral campaign, as is a constitutional convention in Britain and in other countries in which parliamentary dissolution functions. In this respect, as in numerous others, the French political system was much less democratic than others, particularly of the ultra-democratic type *en vogue* after the first World War. But when the constitution was drafted in 1875 the tradition of the Liberals in the Assembly did not call for popular participation, the plebiscite being remembered bitterly as a device of Caesarism. The Monarchists considered the document as in any case only a stop-gap before the return to monarchy. When the constitution had consolidated itself, against hopes and expectations of both factions, no reason existed for *quieta movere*. Changes in amendment procedure were advocated sporadically, particularly during and after the last war;[6] but demands for a genuine Constituent Assembly in accordance with French revolutionary tradition found no general favor.

3. *The Legality of Revolution.* It is axiomatic in French constitutional jurisprudence[7] that a revolution is a legally recognized procedure for abrogating an existing constitution. As a matter of fact, almost all preceding French constitutions were terminated by revolutionary process. It is of record that not a single one of the nine constitutions since 1789 has been abrogated or replaced in the manner prescribed by the instrument itself. The constitution of 1875 is the first of its kind to be terminated in full conformity with the constitutional procedure intended when enacted.

This is perhaps the most perplexing phenomenon of the "revolution" of 1940. As yet, we are unable to interpret it correctly. Has the French nation aged and its customary and almost proverbial revolutionary *élan* subsided? One is drawn to the conclusion that the change of régime was more a cold-blooded act perpetrated by those in authority than a result of emotional forces beyond control underlying all previous French revolutions. Perhaps in this technological age also the revolutionary process has become stereotyped and mechanized. The blueprint for a transition from constitutional to authoritarian government has been applied in our time with equal ease to so divergent political organizations as those of Italy, Ger-

[6] See A. Esmein and H. Nézard, *Eléments du droit constitutionnel* (7th ed., Paris, 1921), Vol. II, p. 510; A. Tardieu, *La révolution à refaire* (Paris, 1932); M. Ordinaire, *La révision de la constitution* (Paris, 1934); and many others.

[7] Joseph-Barthélemy, *op. cit.*, p. 227; Esmein, *op. cit.*, Vol. I, p. 579 ff.

many, Austria, Spain, Poland, and Portugal. For once, defeated France, the political laboratory of the world, seems to have followed only a well-established pattern without contributing much of her own.

4. *The Constitutional Basis of the (First) Cabinet of Marshal Pétain.* Before discussing the constitutional revision of July, 1940, the question has to be answered—raised in England and America—of whether the Pétain cabinet which on June 16 succeeded the cabinet of M. Reynaud is to be regarded as the constitutional government of France. It has been averred that the Pétain government was never approved by the French Parliament, which, owing to the disorderly conditions after the retreat from Tours, could not be convened at the seat of the government in Bordeaux. Since France at that time was still under parliamentary government, the Pétain cabinet, it is said, had not title to govern, and hence could neither ask for and conclude an armistice nor summon a National Assembly at Vichy. All its actions, indeed, were tainted with illegality.

These allegations can scarcely be upheld under French public law. We are not yet in possession of all relevant facts, but it appears that after M. Reynaud's resignation, caused by internal dissensions within his cabinet over the continuation of the war, the president of the Republic, M. Lebrun, appointed Marshal Pétain as *président du conseil*, as was, by virtue of the constitution, as well as under the political custom of the Third Republic, his privilege and duty.[3] After Marshal Pétain had been appointed and the other members of his cabinet sworn in, the government was properly constituted and did not need the approval of Parliament. On the other hand, the cabinet did not succeed automatically to the *full powers* previously granted by statute to the Reynaud cabinet. These expired with Reynaud's resignation, and new full powers were not granted. It can definitely be stated that many acts undertaken by the Pétain government, unless authorized by existing statutes, were illegal.

But when Parliament was reconvened in Vichy on July 9, it did not use the weapons at its disposal for dealing with unconstitutional acts of a government by invoking political responsibility. None of the instruments of political control over the government

[3] Joseph-Barthélemy, *op. cit.*, p. 634; H. Finer, *The Theory and Practice of Modern Government* (London, 1932), Vol. II, p. 1137 ff.

was applied; no member seems to have questioned officially the standing and the jurisdiction of the Pétain cabinet. The proper method would have been a parliamentary interpellation, ending with a vote expressing the opinion of the Chamber of Deputies on the *ordre du jour*.[9] No vote of confidence or no confidence was cast; nor did the Chamber refuse to accept the government's proposal for constitutional reform. Rejection of an important government proposal also implies expression of non-confidence; in the words of Clémenceau, "*la question de confiance est constamment posée.*" Failure of Parliament to proceed against the cabinet of Marshal Pétain by a vote of no confidence, or by a similar action of political disapproval, amounts to parliamentary ratification of past policies and actions of the government.[9a] The fact that the Chambers entered upon discussion of the proposed constitutional revision without availing themselves of the right of political control and its attendant sanctions proves irrefutably that the Pétain cabinet was considered by Parliament as the legally constituted government of France and not as only a *gouvernement de fait*.

This statement refers, however, only to the preliminary meeting of the Chambers, held in preparation for the joint meeting as National Assembly. The latter, once convened, acts as a strictly specialized organ whose exclusive task is that of constitutional amendment. During its session it cannot govern the country, nor can it exercise the instrumentalities of political control, such as a vote of no confidence.[10]

[9] Joseph-Barthélemy, *op. cit.*, p. 694 ff; Émil Giraud, *Le pouvoir éxécutif dans les démocraties d'Europe et d'Amérique* (Paris, 1938), p. 226 ff.

[9a] What has been said in the text with reference to the implicit ratification, by the Chambers, of possibly unconstitutional previous acts of the Pétain government applies as well to actually committed or alleged violations of the constitution by M. Daladier and his colleagues who are at present under indictment before the *Suprême Cour de Justice* created by their successors. One of the main complaints is that the Government then in power failed or neglected to obtain the consent of the Chambers for the declaration of war as prescribed by Art. 9 of the constitutional statute of July 16, 1875. At no time after the outbreak of the war did Parliament invoke the political responsibility of the cabinet for the declaration of war; on the contrary, it voted repeatedly its confidence in the Government, thus demonstrating beyond doubt its complete solidarity with the actions and aims of the cabinet. Incidentally, M. Lebrun, as president of the Republic, and therefore formally responsible for the declaration of war, would be equally guilty of a violation of the constitution, not to mention M. Bonnet, a member of the Daladier cabinet and today one of the most articulate critics of his former chief.

[10] Joseph-Barthélemy, *op. cit.*, pp. 892–893.

5. *"Total" and "Partial" Revision.* A constitutional instrument once enacted reckons with the stability, if not the permanency, of the order it sets out to establish. Although providing for the need of eventual modifications, no constitution can envisage directly the conditions and circumstances of its own termination. Yet for the sake of preserving orderly processes of transition it cannot neglect the incontestable fact that an organizational scheme, invented by mortals, is subject to the law of change. Resolved in terms of constitutional law, this situation covers a stock-in-trade of French political thought, namely, the distinction between *révision totale*, which affects the fundamentals of the constituted order, and *révision partielle*, which, while leaving the fundamentals intact, involves details of constitutional change.[11] Thus a constitutional amendment may imply changes of certain articles only; or the constitutional charter as a whole may be the object of constitutional reform, amounting to a revision instead of an amendment only. By force of the argument *a majore ad minorem*, it is legally possible to change the formal procedure of constitutional amendment itself.[12]

Under French positive law, no obstacles to a total revision exist,[13] with a possible exception (very controversial at that) of the republican form of government in Art. 8 of the law of February 25, 1875, as amended by law of August 14, 1884.[14] The French doctrine stems from the spirit of the framers, who did not expect their work to last; from explicit discussions in the National Assembly of 1871;[15] from practice in connection with previous proposals dealt with by the Chambers, e.g., in 1925, when a project entailing a total revision was sent to the appropriate committee instead of being ruled out as unconstitutional; finally and most convincingly, from the very text of the constitution which in Art. 8, section 3, of the law of February 25, 1875, explicitly allows total revisions. All previous

[11] This problem was discussed fully by the French National Assembly of 1789; see K. Loewenstein, *Volk und Parlament nach der Staatsauffassung der franzoesischen Nationalversammlung von 1789* (Munich, 1922), p. 306 ff. The identical situation was before the eyes of the constitutional lawyers in the last years of the Weimar Republic; see G. Anschuetz, *Die Verfassung des deutschen Reichs* (4th ed., Berlin, 1933), p. 404 ff; R. Thoma, in Anschuetz-Thoma, *Handbuch des deutschen Staatsrechts* (Tuebingen, 1930–1932), Vol. II, p. 153 ff.

[12] See Esmein, *op. cit.*, Vol. II, p. 510.

[13] See Joseph-Barthélemy, *op. cit.*, p. 889.

[14] See *infra* p. 884.

[15] See Paul Cott, in *Annales de l'Assemblée Nationale*, Vol. XXX, p. 421.

amendments were only partial revisions, or amendments in the specific sense of the Anglo-Saxon term.

In 1940, however, there existed an entirely different situation. In conformity with the constitution, the two Chambers in their separate sessions decided in favor of a total revision, but left the content of the new constitutional order to be determined by the cabinet of Marshal Pétain. In the preliminary meeting on July 9, the Chambers were pushed by M. Laval to vote on the total revision without debate.[16] The draft resolution on which the vote was taken reads: "The National Assembly gives full powers to the Government of the Republic under the signature and authority of Marshal Pétain, President of the Council, in order to create, by one or several acts, the new constitution for the French state." It is evident that under the prevailing authoritarian trend observance of the procedural formalities was little more than an empty gesture except for the need to preserve the constitutional decencies. The only hint as to the content of the new constitutional order is contained in the sentence: "The constitution must guarantee the rights of labor, family, and fatherland." Even if these suggestions are considered as legal conditions, they are too vague to be more than programmatic. In other words, the National Assembly refrained from deciding the essentials of the new constitution itself; it transferred the *pouvoir constituant* to the Government. Herein lies the most emphatic reversal of French constitutional law and political thought, in that the basis of the French state, the sovereignty of the people, proclaimed since Rousseau, Siéyès, and the French Revolution, was officially abandoned. Popular sovereignty, the *pouvoir constituant* of the whole nation, cannot be divorced from the people. Even Napoleon I and his nephew had preserved the semblance of popular sovereignty, at least outwardly.

It may be asked whether the concept of the *révision totale* implied, according to constitutional jurisprudence, the right of the National Assembly to vote the Chambers, in their existing composition and function, out of existence. It has been argued[17] that the National Assembly is not in lieu of a genuine constituent assembly or convention, that it is only a constituted organ although endowed with the exercise of the *pouvoir constituant*, that, conse-

[16] *New York Times*, July 10, 1940.

[17] Joseph-Barthélemy, *op. cit.*, p. 892 f.

quently, it cannot do everything it pleases—in particular, that it cannot wipe out the parliament and the government altogether. But this argument does not meet the essence of the concept of total revision. The constitutional limitations inherent in the function of the National Assembly are to be interpreted strictly: The National Assembly cannot touch legally the republican form of government, and it has no jurisdiction to govern in the place of the regular governmental agences or to enact ordinary statutes in the place of the legislative bodies; beyond that, it operates under no constitutional restrictions and may, thus, even decree its own abolition. Moreover, neither government nor parliament is fully destroyed by the revision of 1940; they are merely modified and their mutual relationship is changed—objectives well within the meaning of the notion of a *révision totale*. It must, therefore, be admitted that the National Assembly had jurisdiction to transform France from a democratic into a fascist state.

6. *The Constitutional Revision of July, 1940, in the Chambers.* As is well known, the revision procedure falls into two distinct phases: (a) separate resolutions of the Chambers that a revision shall take place; (b) enactment of the revision by the Chambers joined together as a National Assembly. As a rule, it is the Government that takes the initiative and submits the plan to each Chamber individually; each Chamber decides on the issue individually. As on previous occasions, these regulations were scrupulously observed in 1940. The cabinet headed by Marshal Pétain, in which Laval and Marquet were the leading men, submitted a concrete proposal to each Chamber and each Chamber accepted it. The majorities amounted to veritable landslides: in the Chamber of Deputies, totaling 615 members, the division was 395 to 3; in the Senate, with 314 members, it was 229 to 1.[18] The Constitution prescribes explicitly *à la majorité absolue des voix;* this implies that, as in the case of ordinary laws, a majority of those voting, not a majority of *all members*, has to vote in favor of the amendment. The procedures in the Chambers were thus fully constitutional.

7. *Adoption of the Reform by the National Assembly.* For the second phase of the revision procedure, the National Assembly, it is prescribed that it shall meet in Versailles (Art. 3, section 2, of the law of July 22, 1879). Since this provision is contained in an ordinary statute, no violation was involved when the Assembly was

[18] *New York Times*, July 10, 1940.

convened in the theater of the Casino of Vichy instead of in the Hall of Mirrors in Versailles, which was still under German occupation. The rule that the chairman of the Senate convokes the National Assembly was also observed; and M. Jeanneney, as Senate president, acted as chairman of the National Assembly.

The project had no very smooth sailing in the National Assembly, convened on July 10. It is significant that, at the insistence of some members, stenographic records of the proceedings had to be kept, because members either were anxious to establish an alibi or desired to place their opposition on record. After discussions which were reported as "stormy," the revision was accepted by a vote of 569 to 80. An absolute majority being 467, the revision was thus passed in conformity with the constitution. Although the majority was far above the required minimum, the various controversies concerning the tabulation of votes, vacancies, abstentions, etc., cannot be altogether neglected. It was contended that the basis for computing the majority should not be the legal number of members of the National Assembly, but only those in actual exercise of their functions, thus omitting those who had resigned, died, or whose membership had been invalidated.[19] If some seventy forfeited seats of the Communist party in both Senate and Chamber are deducted from the grand total of 919 legal members of the National Assembly, as seems justified because these members were no longer legally representatives, the minimum requirement for the adoption of a constitutional amendment becomes considerably lower and the majority in favor of the revision even more impressive.

Only the stenographic record can reveal whether all members whose votes were counted were actually present when the ballot was taken. French parliamentary practice allows voting by proxy (*vote des absents par procuration*),[20] members present placing ballots for absent members in the box carried around by the *huissiers*. This very objectionable practice, a French singularity unknown in other parliamentary countries (and not to be confused with pairing), has been defended on the ground that members are frequently unable to leave their committee meetings for balloting in the plenary sessions. The danger of abuse is increased in that afterwards a member whose vote was cast by proxy is permitted to "rectify" the vote

[19] Joseph-Barthélemy, *op. cit.*, p. 893; while Esmein, *op. cit.*, Vol. II, p. 500, assumes the legal number of members as the basis for counting.

[20] Joseph-Barthélemy, *op. cit.*, p. 556.

under the contention that his intention was misinterpreted.[21] It may even happen that several ballots will be placed in the box by different members for one of their absent colleagues (*chargement des scrutins*);[22] and thus the number of votes officially recorded does not necessarily correspond to the actual wishes of the members present and absent.

It cannot be stated with certainty whether or not the vote on the constitutional revision on July 10, 1940, was vitiated by such defects. "Rectifications" scarcely occur in a country under incipient dictatorship. But such practices may explain the surprisingly large number of votes cast in favor of what has been aptly described as "assassinating the Third Republic and committing suicide at its corpse." In particular, absentees may have been represented as voting in favor of the proposal. An indirect indication may be found in a report[23] that about two-thirds of the members were present. The number of votes cast seems to indicate a higher quota of ballots.

The number of actual abstentions seems to have been considerable. Some members were present in the hall during the voting, but refrained from voting; others had left the hall before the balloting began. Among the former were Reynaud and Chautemps, among the latter Herriot. The roll of honor of those who openly voted against the death sentence of the constitution of 1875 included Léon Blum, Paul-Boncour, Vincent Auriol, Senator Godard, and other Socialists. But no party had the courage to vote *en bloc* against the measure, as had been done at Berlin, under conditions much more threatening to the personal safety of dissenters, by the Social-Democratic party in the meeting of the Reichstag of March 24, 1933, when the Enabling Act was carried by 441 against 94 Socialist votes.[24]

Another aspect deserves special attention. A number of members who had left France or, as their opponents claimed, had fled, were actually barred from participation in debates and balloting. Laval revealed in the meeting that they had been denied transportation from French Morocco by the German-French armistice

[21] One remembers that this happened at the first vote of confidence for the cabinet of M. Reynaud on March 20, 1940, which had been carried at first only by a majority of one vote.

[22] Joseph-Barthélemy, *op. cit.*, p. 557.

[23] *New York Times*, July 11, 1940.

[24] K. Loewenstein, *Hitler's Germany* (New York, 1939), p. 15.

committee in Wiesbaden.[25] Among these were Daladier, Mandel, Yvon Delbos, César Campinchi, Jean Zay, Pierre Cot, and the influential member of the Right, Henri de Kerillis: these protested by wire against their exclusion.[26] If the situation is correctly reported, it constitutes a serious restriction upon the constitutionality of the whole procedure, reminiscent of the enforced exclusion of all the Communist and some of the Social-Democratic members from the German Reichstag on March 24, 1933. Without being able to offer proof, it may safely be assumed that the persons involved would have voted against the constitutional revision, thus not only increasing the number of negative votes but also influencing, by their opposition, some or even many of the others. This conclusion gains some weight in view of the fact that while the number of "no" votes in the separate resolutions of the two Chambers was negligibly small (only four), they increased in the vote of the National Assembly to eighty. Even if it is possible, however, that pressure of dissentient members would have swelled the opposition, it is not likely that they could have turned the protesting minority into a rejecting majority. It is generally assumed that material or formal irregularities committed in the proceedings of the National Assembly do not constitute a ground for invalidating a resolution adopted, since there is no authority competent to decide the matter.[27] But it is manifestly a different thing if the entire proceedings as such are vitiated by illegal arrangements. For a country entering the legal no-man's-land of totalitarian government, this problem is purely academic and may, for obvious reasons, not be discussed even in French doctoral dissertations.

8. *Immutability of the Republican Form of Government.* The revision of 1884 added to Art. 8 of the constitutional law of February 25, 1875, the clause: "The republican form of government shall not be made the subject of a proposed revision of the constitution." The implications of such an "intangible," "immutable," and "un-

[25] *New York Times*, July 12, 1940.

[26] A dramatic incident occurred when these men were attacked by some members of the extreme Right. Both Jeanneney and Herriot defended them; Herriot stated that they had left the country with the consent of the Pétain government and on a ship assigned to them by the authorities, and added that he had tried in vain to obtain permission for their return in time for the meeting of the National Assembly In the meantime it has been reported that on July 23, 1940, they were deprived of their citizenship because they had "fled" from France in her critical hour.

[27] See Esmein, *op. cit.*, Vol. II, p. 507 ff.

amendable" clause of a constitution have ever since been the subject of much juridical speculation.[28] Insertion of the clause at that time was clearly intended as a legal bar to monarchical restoration. In its original meaning, the clause was beyond dispute. It was the logical consequence of the *Seize Mai* and the subsequent consolidation of the Republic. Viewed in the light of past years, it was a superfluous precaution, because in the meantime the Republic had entrenched itself in the hearts of the people. At no time did any of the pretenders have the slightest chance of success.[29]

Yet in the year 1940, after the world has witnessed the establishment of one-man government much more unlimited than absolute monarchy ever was before 1789, one may well raise the question of whether the transition of France from a "republican" to a totalitarian and dictatorial form of government is not in conflict with the explicit exclusion of the republican structure of the state from the scope of constitutional amendment. To anticipate the answer: *Juridically*, totalitarian government is not incompatible with what is called the republican form of government.

French public law alone does not provide the key to the solution. One must project the problem on the background of comparative constitutional law. Historically, as demonstrated by the constitutional history of another republic, the United States, the definition of "republican government" is determined by its opposite, that is, "monarchical government." The guarantee of a republican form of government for the states was contained in the Virginia plan, commonly attributed to Madison and presented to the Philadelphia Convention by Randolph on May 29, 1787;[30] and it passed into Article IV of the Constitution of 1787. Clearly, it was aimed at monarchical government and at nothing else. The problem repeatedly appeared later on in American constitutional controversies, but the Supreme Court consistently declined to define what the clause meant; whenever it came under fire, the Court, by labelling the issue a "political question," evaded a decision as beyond its jurisdiction and belonging to the political departments of the

[28] See the enumeration of similar clauses, which are rather frequent, by Joseph-Barthélemy, *op. cit.*, p. 179.

[29] At the outbreak of the war, the French government declined politely and firmly the offer of the Count of Paris to serve in the French army.

[30] See M. Farrand, *The Records of the Federal Convention* (New Haven, 1911), Vol. I, p. 20 ff.

federal government.[31] In this country, a precise definition of republican government has never been announced officially.[32] Even today, when not the remotest chance of a monarchical restoration exists, we operate still with the obsolete conception of 1789. The constitutional guarantee of the republican form of government for the states is devoid of real meaning, as demonstrated by the virtual dictatorship of Huey Long in Louisiana; nobody thought to assail his régime on the ground of being in violation of the federal constitution. The issue may well become in this country one fraught with vital political implications. A short time ago, an influential group of business-men advocated, with specious historical arguments, substituting for the term "democracy" that of "republic," with the *sousentendu* that while democracy obviously is identical with popular government, a republic may be compatible with authoritarian rule.

A clause similar to that of the French constitution is found in Art. 6 of the federal constitution of the Swiss Confederation, dating from May 29, 1874.[33] But in Switzerland the underlying concept of a republic is that the supreme will of the state is formed, not by a

[31] See Luther v. Borden, 7 How. 1 (1849); Texas v. White, 7 Wall 700 (1869); Pacific Telephone and Telegraph Co. v. State of Oregon, 223 U. S. 118 (1912). The last-mentioned decision is particularly pertinent because the introduction of the ultra-democratic devices of initiative and referendum in the state of Oregon was held by the plaintiffs to be inconsistent with the republican-representative character of government guaranteed to the states. See Oliver P. Field, "The Doctrine of Political Questions in the Federal Courts, 8 *Minn. Law Rev.* (1924) 485 ff; cf. G. Post, *The Supreme Court and Political Questions* (Baltimore, 1936), p. 15 ff, 103 ff, 107 ff, 125 ff.

[32] A. N. Holcombe, *State Government in the United States* (New York, 1936), p. 41, describes a republican government as one which recognizes the will of the people as the ultimate source of authority and which implies interpretation and execution of this will of the people by responsible agents acting under the forms of law. This corresponds to a working definition of democracy which, as it is well known, is compatible with constitutional monarchy. Moreover, the definition neglects the incontestable historical fact that there have existed class republics (aristocratic and oligarchic), and republics with corporative ruling organs. See G. Jellinek, *Allgemeine Staatslehre* (3rd ed., Berlin, 1922), p. 710 ff; H. von Treitschke, *Politik* (Leipzig, 1918), Vol. II, pp. 206 ff, 250 ff.

[33] "The cantons are required to demand from the Confederation its guarantee of their constitutions. This guarantee must be accorded, provided . . . that they insure the exercise of political rights according to republican [representative or democratic] forms." The clause was inserted in the constitution of September 12, 1848, with reference to the canton of Neuchâtel, whose nominal head was a Hohenzollern. See Fritz Fleiner, *Schweizerisches Bundesstaatsrecht* (Tuebingen, 1923), p. 57, note 10, and p. 16.

single person, but by a plurality of persons, and it is defined and qualified in the constitutional document itself by explicit reference to representative and democratic forms which guarantee the exercise of the rights of the people. Only representative and democratic institutions make a state "republican."

In France, no such official definition of the term "republican" is available. At the time of its adoption, the clause clearly meant the exclusion of the opposite, that is, the monarchical form of government. The problem, hence, becomes one of defining "monarchy." Here we encounter one of the most controversial questions of constitutional theory of all times. Monarchy has been defined and circumscribed appropriately as a government in which "the supreme title to ruling powers belongs to a single person (or several persons) who rule the state by one physical will, a will which is legally not derived from any other will."[34] In the light of liberal nomenclature from which the term derives its historical validity in the American, Swiss and French constitutional setting, a monarchy is the dynastic —not necessarily hereditary—sovereignty of a prince or ruler, exercising his powers by the grace of God or of the people. Although one may note among French constitutional lawyers an occasional tendency toward identification of republican and democratic government as historically justified,[35] the constitutional provision by itself does not contain that amplification and qualification of the term "republic" or "republican" which has become customary in many post-war constitutions; e.g., Art. 1 of the Weimar constitution of 1919 states in paragraph 1 that "the Reich is a republic," while qualifying the statement in the following paragraph 2: *Alle Staatsgewalt geht vom Volke aus.*[36] Consequently, in the absence of such a qualifying definition, the French clause remains what it was from the beginning, namely, the prohibition of monarchy and nothing else.

Obviously this does not settle the problem. What, precisely, is the difference between monarchy and one-man dictatorial rule? Hitler in Germany is *Fuehrer* for life; so is Franco in Spain as *caudillo;* so was Mustapha Kemal in Turkey as president. To be sure,

[34] Jellinek, *op. cit.*, p. 669 ff. [35] See Joseph-Barthélemy, *op. cit.*, p. 60.

[36] Similar provisions are found in the Austrian constitution of 1920, Art. 1; Constitutional Charter of Czechoslovakia of 1920, Art. 1, sec. 1; Polish constitution of 1921, Art. 1; Greek constitution of 1927, Art. 1; Spanish constitution of 1931, Art. 1.

Mussolini, legally, is only *capo del governo* during the pleasure of the crown. The term *duce* is extraconstitutional; but dismissal of Mussolini by the king may well be a factual impossibility. For the Nazi doctrine, the distinction between monarchy and republic is pointless; the Third Reich is under neither republican nor monarchical government, but a type *sui generis*, an authoritarian *Fuehrerstaat*.[37] Similarly, under the new order in France, Marshal Pétain is *chef de l'état* without any limitations on his powers in time or scope.

On the other hand, one may well entertain substantial doubts whether, after half a century and more of democratic republicanism, a state which admittedly flouts democratic-representative institutions and ideologies still conforms to the historical notion of a "republican" state. If we are to retain the ancient and original implication of "republic," it signifies *libertas*, liberty. If only a responsible government is a free government, and if free elections are the hallmark of a free political society, a fascist state, denying these to its citizens, ceases to be a republican state. Under this token, the transformation of democratic and free—that is, republican—France into a fascist, authoritarian, or totalitarian state violates that specific provision of the constitution which rendered the republican form of government "intangible" and "immutable." On the other hand, fascist jurisprudence—and such a thing exists, all statements to the contrary notwithstanding—may argue that a fascist France is still a republican state, since representative institutions are to be created, although not representative of territorial circumscriptions, but representative on the higher plane of "corporativism." Such sophistry will not detract from the fact that France, with a "head of state" lacking constitutional fixation of tenure and enjoying the power to appoint his successor, has adopted a form of government which is quasi-monarchical in substance if not in form. In his proclamations, Marshal Pétain already uses the kingly "We," while Hitler and Mussolini retain the more appropriate, because more autocratic, "I."

[37] See O. Koellreutter, *Grundriss der allgemeinen Staatslehre* (Tuebingen, 1933), p. 119 ff; O. Meissner and G. Kaisenberg, *Staats- und Verwaltungsrecht im Dritten Reich* (Berlin, 1933), p. 162; E. R. Huber, *Verfassung* (Hamburg, 1937), p. 105 ff; Loewenstein, *op. cit.* in note 24 *supra*, p. 28 ff. In general, the political and juridical literature of totalitarian states is little interested in the classification of states, which is considered a pastime of the "liberalistic" age.

Be that as it may, at any rate the problem was not raised in the National Assembly. Consequently, we need not be more French than the French themselves. Moreover, not only does the French doctrine hold that the insertion of the clause in 1884 was aimed solely at monarchical restoration, but it is generally assumed that what Jellinek aptly called the "normative force of factuality" (*normative Kraft des Faktischen*) may override politically, if not juridically, the obstacles of the constitution. It has even been contended that if the Chambers declare in general terms "that a revision of the constitution should take place," the republican form of government is tacitly exempted and thus the prohibition remains inoperative.[38] If it be accepted that a revolution creates a new constitutional order of right, even more does the tacit elimination of a paper provision not affect the validity of the new order. The French always have been realists and not dogmatists.

Moreover, the French doctrine admits[39] that even if the National Assembly transgresses alleged limitations of its powers, no remedy exists. The President of the Republic is not permitted to refuse promulgation;[40] the courts are deprived of the right to invalidate a parliamentary enactment on account of unconstitutionality. No sanction is available even if the constitutional revision is affected by what one author calls, with inimitable delicacy, "*le regrettable parfum de coup d'état.*"[41] *Coup d'états* and revolutions, of which the French have quite a tradition, are easily assimilated by the political conscience, and a *gouvernment de fait* which succeeds in establishing itself permanently becomes soon a *gouvernment de droit.* This privilege is denied only to a *gouvernment usurpateur;* and no one would contend that the Pétain government emerging from the Vichy proceedings can be considered as having illegally usurped political power. Consequently, even if flagrant violations of existing constitutional law had been committed—which is not proved—from the viewpoint of constitutional legality the new order in France can scarcely be attacked.[42]

[38] See Esmein, *op. cit.*, Vol. II, p. 510.

[39] See Joseph-Barthélemy, *op. cit.*, p. 895; Esmein, *op. cit.*, Vol. II, p. 507 ff.

[40] Joseph-Barthélemy, *op. cit.*, p. 897; Esmein, *op. cit.*, Vol. II., p. 507 ff.

[41] Joseph-Barthélemy, *op. cit.*, p. 895.

[42] See the extensive discussions of revolution, *coups d'états*, and the related problems of the identity and continuity of the state in Olivier Brochet, *Étude du coup d'état en fait et en droit* (Paris, 1935); Paul Martin, *Portée juridique des révolutions en droit public interne* (Montpellier, 1938); and Jean Raicu, *L'égalité et nécessité* (Paris, 1933).

9. *Pleins Pouvoirs Constitutionis Constituendae Causa.* The National Assembly of 1940 did not devote itself to drafting the new constitution, as had been the proud task of constituent assemblies in the past, but conferred the plenitude of the *pouvoir constituant* upon the government, by way of a full delegation of powers. *Pleins pouvoirs* granted to the government have been for some time a familiar device of crisis or emergency government in democratic states.[43] At first resorted to only in war-time—as the most efficacious technique of war government—the practice of full powers was extended with increasing frequency to internal crises as well. During the last years of party struggle in the Third Republic, it had become the only constitutional device for carrying on the normal governmental activities. The preceding war cabinets of both Daladier and Reynaud had availed themselves of this quasi-authoritarian method, to which, indeed, the French people had become as much accustomed as were, under similar circumstances, the Germans to the emergency powers by decree of the president under Art. 48 of the Weimar constitution. There is, however, a fundamental difference between a delegation of powers to the government for a limited period, renewable only by continued confidence of the parliament, and the transfer of full powers to a government *rei publicae constituendae causa*, unlimited both in time and in scope. As happens frequently in constitutional practice, an existing institution or legal form was used for purposes entirely incompatible with the institution's original intent.

By way of imitation and repetition, the unrestricted transfer of the *pouvoir constituant* to an authoritarian government has become the stereotyped vehicle for substituting authoritarian for constitutional processes of government. The parallel to the transition from the Weimar system to the Hitler régime is too striking to be missed.[44] Another analogy deserves attention. The delegation of the *pouvoir constituant* was explicitly given to the government "under the signature and authority of Marshal Pétain," thus signifying a personal trust in one who is believed to be the custodian of the French future. Constitutional government does not operate with such a fixa-

[43] See K. Loewenstein, "The Balance between Legislative and Executive Power; A Study in Comparative Law," *University of Chicago Law Rev.*, Vol. 5 (1938), p. 598 ff, with extensive literature listed in the footnotes.

[44] See Enabling Act of March 24, 1933, Art. 2, sentence 1 (Loewenstein, *op. cit.*, p. 16), and Reconstruction Act of January 30, 1934, Art. 4: "The government of the Reich may enact new constitutional law" (Loewenstein, *op. cit.*, p. 40).

tion of a general rule of law on definite persons. The Enabling Act of 1933 also was granted to the cabinet of Hitler as then existing.[45] This personal relationship between powers granted by the National Assembly and an individual person as the head of the government does not mean, of course, that the new order lapses once Marshal Pétain has resigned from office.

In conclusion, it may be mentioned that the grant of *pleins pouvoirs* was in fact without limitations. It has been reported that in both the Chamber and the Senate the appropriate committees considered and recommended the plan for the establishment of dictatorship after it had been explained to caucuses of senators and deputies by Laval. No party decision was taken on the issue. Nor did the radio address of Marshal Pétain on July 10, 1940, give more than vague hints as to the coming order; it was couched in the familiar terms of Italian and Spanish rhetoric, with references to "international capitalism and socialism which had exploited and degraded France."

10. *The Plebiscite on the New Order.* Opposition to Laval's original plan to railroad through the constitutional revision developed during the proceedings of the National Assembly to such an extent that, in the final adoption, a clause had to be inserted into the statute reading as follows:[46] "This change of constitution must be approved by the French people and then be passed by the people's representatives as yet to be created." The incorporation of popular ratification into the regular process of amending the constitution is to be considered legally as an amendment of the amending process itself, in that a popular plebiscite is added to the other requirements for amending the instrument. In this sense, the insertion of the plebiscite is wholly within the jurisdiction of the National Assembly.[47]

But the demand as such can be interpreted in two mutually exclusive ways. The democratic doctrine of the Third Republic, nurtured by political experience, spurned any popular participation whatever in the process of revising the constitution, leaving to the parliamentary bodies, separate and combined as National Assembly, the entire responsibility. The popular will was not even to be ascertained through intervening parliamentary elections. On the

[45] See on the legal implications of Art. 5 of the Enabling Act of March 24, 1933 K. Loewenstein, "Dictatorship and the German Constitution, 1933–1937," *Chicago Law Rev.*, Vol. 4 (1937), p. 544.

[46] *New York Times*, July 11, 1940.

[47] See Esmein, *op. cit.*, Vol. II, p. 510.

other hand, in political tradition the plebiscite has etched itself indelibly into the French mind as a political device of that type of dictatorial government which the French call Caesarism. Political theory distinguishes clearly between the plebiscite as a political demonstration and the referendum as a functional method in the constitutional state.[48] In the French past, plebiscites were confined in the main[49] to Caesaristic or dictatorial régimes: Napoleon I used the institution three times (1800, 1802, 1804); Napoleon III also three times (1851, 1852, 1870)—every time, with the exception of the plebiscite of May 8, 1870, with overwhelming success for the government manipulating the procedure. The French have a good memory for their past errors, and they are well aware that the allegedly ultra-democratic method of plebiscite is an "odious mockery" (de Tocqueville), a poor travesty upon democracy unless guaranteed by unregimented expression of public opinion, free campaigning, and free voting. Moreover, all dictatorial plebiscites were held *ex post facto* and therefore were practically useless, the popular ratification as planned in 1940 being no exception.

We can only speculate on the intentions of the Assembly in demanding, and of the government in consenting to, the plebiscite. But since the Pétain government at first had not planned it, it appears that the submission of the new order to the people must be considered as a concession of the government and perhaps even a bow to the principle of national sovereignty which still underlies French political concepts. That the concession was made with the *sousentendu* that dictatorial plebiscites, particularly when held under the bayonets of an occupying power despising democracy, invariably turn out in favor of the government, as shown by Italian and German precedents, is by no means improbable.

In this connection another controversial point of French constitutional jurisprudence arises. Is the National Assembly bound to

[48] Joseph-Barthélemy, *op. cit.*, p. 253, makes the following unequivocal statement: "*Le Césarisme continues à affirmer que le peuple est titulaire de la souveraineté, mais qu'il a remis cette souveraineté à un homme de confiance, le César. Et l'abandon du pouvoir au César par le peuple s'effectue par un acte exprès de volonté.*"

[49] Exceptions occurred under the Convention according to the Constitution of the Year III (see Albert Sarraut, *Le gouvernement direct en France*, Paris 1899, p. 225 ff, the doctoral thesis of one of the leading French parliamentarians of today), and under the republican "Government of the National Defense" in 1870; in the latter case, the plebiscite was actually restricted to Paris and neighboring districts (see Sarraut, *op. cit.*, p. 338 ff).

and limited by the preceding resolutions of the Chambers, or may the National Assembly debate and vote on constitutional amendments which have not formed the subject of the preceding resolutions of the Chambers acting separately?[50] On closer inspection, the issue may appear irrelevant for the constitutional reconstruction of 1940. In the first place, a total revision as decided on by the Chambers opens the way for every kind of amendment, hence for change of the amending process itself. In the second place, insertion of the plebiscite seems to have been dictated by loyalty to the democratic principle of national sovereignty underlying the constitution of 1875; consequently, it could not be an unconstitutional transgression. At any rate, once enacted, it has become a part of the amending procedure, and it is binding on the government, whatever its political color may in future be. Not to hold the plebiscite would amount to an outright violation of positive law as it now exists. The plebiscite thus becomes the essential link between the old order and the new régime of France.

11. *"Dé-constitutionalisation."* French doctrine maintains[51] that a *loi constitutionnelle* can be repealed only by another *loi constitutionnelle*—that is, by a statute of identical rank in the hierarchy of legislative enactments. Practically, however, successful revolutions, whether peaceful or violent, have had the effect that the preceding constitution was superseded or became obsolete even without being formally abrogated. In fact, this has been almost the rule in French history since 1789.[52]

Likewise in 1940 the National Assembly, by conferring upon the government full powers to enact the new constitution and to create constitutional law, did not formally repeal the constitutional statutes of 1875 and the ensuing years which form the French constitution. The demise of the republican constitution was due to an

[50] On this controversy, see Joseph-Barthélemy's (*op. cit.*, p. 593 ff) affirmative opinion—that is, that the National Assembly is limited; and that of Esmein, *op. cit.*, Vol. I, p. 502, upholding the negative.

[51] See Esmein, *op. cit.*, Vol. I, p. 579 ff.

[52] Only a few illustrations can be cited here. After the *coup d'état* of 18 Brumaire, an ordinary statute enacted by the legislative bodies (*Conseil des Cinq Cents* and *Conseil des Anciens*) voted the Directory out of existence. After the *débâcle* of Sedan (September 1, 1870), the *Corps Législatif* (of the constitution of 1852) wanted at first a legal procedure for terminating the Napoleonic régime, but was overrun by a mob (over Gambetta's protest) *"qu'on fît des choses regulières."* The Republic was proclaimed in the *Hotel de Ville* in Paris and a Government of National Defense was installed by way of revolution; see Esmein, *op. cit.*, Vol. I, p. 585.

act of the legally constituted authorities, and not to a revolutionary *force majeur*. This raises at once the intricate problems of what constitutional jurisprudence calls *dé-constitutionalisation par effet de révolution*.[53] De-constitutionalization means that some provisions of the superseded constitution, if having no direct bearing on the structure of government, retain their validity under the new order, though only as ordinary statutes and no longer sheltered by constitutional-amendment requirements.[54]

The statutes which formed the constitution of 1875 consisted at the date of its termination of not more than twenty-seven articles; it was not only the scantiest constitutional document ever enacted in France, but as well the briefest in existence anywhere. In fact, it contained only a skeleton of the frame of government, outlining a minimum of structural arrangements. French politics moved to a large extent on the tracks of constitutional habits or conventions. None the less, even this skeleton constitution contains a number of provisions which could retain their validity even after the obsolescence of the constitutional order as a whole. Among these—selected at random—might be the granting of amnesties only by statute,[55] or parliamentary immunities,[56] which are preserved, at least nominally, even in Italy and Germany. Some provisions, although having a direct bearing on the existing organs of the state and their interrelationship, belong as well to any well-ordered commonwealth and are by no means automatically a dead letter simply because the color of the régime has been changed.

No one can predict whether or not the practice of de-constitutionalization will be of importance hereafter. It depends largely on the degree of "coördination" of constitutional lawyers under the new order. But at least one notable case of a "survival," in all succeeding constitutions, of a provision originally invested with constitutional validity already looms large in the minds of those con-

[53] See Joseph Barthélemy, *op. cit.*, p. 227; Esmein, *op. cit.*, Vol. I, p. 580 ff; L. Duguit, *Traité du droit constitutionnel*, Vol. III (Paris, 1923), p. 639 ff; Martin, *op. cit.*, p. 120 ff, 138 ff.

[54] Joseph-Barthélemy, *op. cit.*, p. 227: "*Le droit public Français a forgé la théorie dite de la déconstitutionalisation par effet de révolutions, pour remédier en partie à la vulnérabilité des constitutions. Les dispositions qui, dans les textes constitutionnels frappés par la révolution, ne sont pas propres au regime qui vient de tomber, subsistent; seulement, elles ne survivent qu'en qualité des lois ordinaires.*"

[55] Art. 3, sec. 2, sentence 2, of the statute of February 25, 1875.

[56] Arts. 13 and 14 of the law of July 16, 1875.

versant with the repressive technique of dictatorial régimes, namely Art. 5 of the constitution of November 4, 1848, which abolished the death penalty in political matters.[57] French jurisprudence holds that this provision, not essentially confined to republican régimes, and valid for any and all governments, survived the dictatorial constitution of 1852 and again became positive law under the constitution of 1875. The article was, however, de-constitutionalized and subsisted only as an ordinary law; that is, political crimes are regulated by the Penal Code, and may be regulated in future under an authoritarian régime by any act of the ordinary law-making power. If such a step as that of threatening the extreme penalty for political acts should be taken by the new régime, it would be a momentous breach with French constitutional tradition and would indicate unmistakably the trend toward genuine fascism.[58]

12. *The Future of the Bill of Rights.* This leads to another problem of the highest importance for the continued existence of the *Rechtstaat* in France. Did the Bill of Rights, the famous *Déclaration des Droits de l'Homme et du Citoyen* of the constitution of Septem-

[57] See Joseph-Barthélemy, *op. cit.*, p. 228; Esmein, *op. cit.*, Vol. I, p. 581; Martin, *op. cit.*, p. 157 ff. The problem is rather complicated since Napoleon III, while maintaining the principle, inserted the death penalty for crimes against the life of the Emperor and members of the Imperial family in Art. 86 of the *Code Pénal* by a law of June 10, 1853.

[58] Space forbids a discussion of the history and the present status of "political crimes" and "political justice" in France. It is obvious that in times of internal or external crisis the executive authorities can avail themselves not only of the normal repressive methods against high treason and sedition and of the military laws, but also of the stringent measures of the state of siege (based on the laws of August 9, 1849, and of April 3, 1878; see Joseph-Barthélemy, *Précis*, p. 237 ff; *idem*, *Traité*, p. 759 ff) which may lead—and did lead during the wars of 1914–1918 and of 1939–1940—to the infliction of the death penalty. But on principle, formally established in the famous Law on the Press of July 29, 1881, all manifestations of political opinion were declared free, and all provisions contrary to the principle were formally revoked (see Joseph-Barthélemy, *Précis*, p. 175 ff). In the years preceding the present war, the French Republic resorted to legislative restrictions on subversive movements; see K. Loewenstein, "Legislative Control of Political Extremism in European Democracies," *Columbia Law Rev.* Vol. 38 (1938), pp. 610 ff, 746 ff.

Another aspect of "political crimes" consists in what the French call *la justice politique* (see Joseph-Barthélemy, *op. cit.*, p. 867 ff), or impeachment of Anglo-Saxon law. The Senate is constituted as *Cour de Justice* (Law of February 24, 1875, Art. 9, and of July 16, 1875, Art. 12); the Chamber of Deputies may function as the indicting organ. The procedure is restricted to the president of the Republic and the ministers only. Penalties are confined to those contained in the penal laws, in particular under the term "*attentat à la surété de l'état*" (see law of August 10, 1889, Art. 23).

ber 3, 1791, or any of its subsequent repetitions and restatements, constitute a part of the positive public law of France under the constitution of 1875? The adoption of the Bill of Rights by the Constituent Assembly on August 27, 1789, was the fundamental fact of the Revolution, and of incomparable consequences for the development of the constitutional state thereafter. The new gospel[59] of "liberal monism" was addressed to the entire world, and in fact has shaped all public law ever since, down to the beginning of the fascist era. Under the extreme democratization of the United States, specified individual rights are safeguarded even as against the legislator, and can be modified only by constitutional amendment.[60]

Fascist dictatorship, whether authoritarian or totalitarian, is incompatible with a guarantee, by constitution and courts, of individual rights. What we are living through today is the counter-revolution of fascism against 1789. Removal of the obstacle of individual rights, either by explicit repeal or by implicit supersession, is the primary requisite of dictatorial and totalitarian government.

What will be the attitude of the new order in France toward the most treasured heritage of the Revolution? The answer seems clear. Without overstepping the *Déclaration* and its contents, it cannot function. At the present juncture, it seems a fateful circumstance that the constitution of 1875, drafted to be only a minimum code of constitutional procedure, and not as a proclamation of political principles and governmental tenets, is almost the only French constitution since 1789 which was not accompanied by, or did not contain, a formal declaration of rights.[61] The failure of the "Fathers"

[59] The author does not want to restate the famous controversy over the origin of the *Déclaration*—whether it was a product of the Anglo-Saxon or of the French political genius. He is, however, inclined to follow the thesis of Jellinek, with the modification that the doctrines of Montesquieu and the Enlightenment, on the one hand, and Anglo-Saxon legal tradition, on the other hand, share responsibility for the final formulation.

[60] On the important difference between the American and the European legislative technique in dealing with individual rights, see K. Loewenstein, "Legislative Control of Political Extremism in European Democracies," *Columbia Law Rev.*, Vol. 38 (1938), p. 767 ff.

[61] Napoleon I's Constitution of the Year VIII refrained from including a bill of rights. As a matter of fact, Napoleon's dictatorship, the first totalitarian régime in modern times, suppressed all civil liberties, while preserving that second great principle of the Revolution, i.e., equality. See K. Loewenstein, "Opposition and Public Opinion under the Dictatorship of Napoleon the First," *Social Research*,

of 1875 to incorporate a declaration of individual rights into the constitutional framework has ever since kept French constitutional theory in a quandary, which might easily become of far-reaching significance for the future conduct of political life in France.

Two schools of thought may be summarized briefly as follows. French public law is permeated with private law concepts, as befits a legal civilization drawing its essence from Roman law. Thus constitutions are considered as based on a sort of synallagmatic contract; each succeeding constitution creates a new bilateral relationship between government and people. Some authors go even farther in proclaiming that certain fundamental features of public life have become so completely integrated in French political society that their validity cannot be affected by a mere change of constitution. Foremost among these lasting politico-legal values are the rights of the individual. Therefore, even if a constitution fails explicitly to ratify or restate them, they remain positive rules of law (*caractère conventionnel de la règle de droit*).[62] For a legal theory steeped in the tradition and techniques of the common law, this aspect has nothing very startling.

But another school of French constitutional jurisprudence, trained in the positivism of the *lex scripta* of Roman ancestry, denies, with better arguments it would seem, the contention of the continued validity of the Bill of Rights as positive law.[63] Regrettable as it may seem for political reasons, the *Déclaration*, under the constitution of 1875, has never been more than the solemn embodiment of symbolic values, a confirmation of a philosophical ideal, a postulate of the highest order, to be sure, but never a juridical rule of positive law and as such binding on the courts, or even to be ob-

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Vol. 2 (1937), p. 461 ff. Even the dictatorial constitution of Napoleon III of January 14, 1852, embodied, in its very first article, the principle of the permanent validity of the *Déclaration:* "*La constitution reconnait, confirme et garantit les grands principles proclamés en 1789 et qui sont la base du droit public Français.*"

[62] See Maurice Hauriou, *Principes du droit public* (Paris, 1910), p. 214; *idem.*, *Précis du droit constitutionnel* (Paris, 1923), p. 268 ff. Hauriou insists on the conventional character of all positive law. See also Martin, *op. cit.*, p. 120 ff. With great emphasis, L. Duguit, *Traité du droit constitutionnel*, Vol. II, p. 158 ff: "*Les déclarations de droit contiennent des dispositions impératives, mais elles s'adressent à l'état et non aux sujets.*" See also *idem.*, Vol. III, p. 562 ff. G. Jèze, "Valeur juridique des déclarations de droit et garanties de droit," *Revue du droit public* (1913), p. 685 ff.

[63] This line of reasoning is followed by Esmein, *op. cit.*, Vol. I, p. 553; Carré de Malberg, *Théorie générale de l'état* (Paris, 1920), Vol. I, p. 240 ff; Joseph-Barthélemy, *Précis*, p. 44 ff.

served by the sovereign legislator. We encounter here one of the examples of legal mysticism, a phenomenon frequent in monarchical and dictatorial régimes, though not altogether absent even in the "rational" climate of the constitutional state. Moreover, the content of the Bill of Rights of 1789, even if it had been formally restated later on, could not bind the courts because of the absence of judicial review.[64] It is incontestable that the constitution of 1875 does not contain, and does not even indirectly refer to, the *Déclaration* of 1789 or any other bill of rights. Its content, therefore, is not positive constitutional law.

Consequently, the new order in France finds itself in the position that it can disregard the principles of 1789 without violating the constitution of 1875, which has not been formally abrogated. At best, the Bill of Rights was, as a principle of political ethics, morally persuasive for the legislator, though not accompanied by any legal sanction in case of infringements by Parliament. If an authoritarian government of France overcomes whatever residues of political scruples it may still cherish, no legal obstacle will exist to the enactment of arbitrary, unequal, discriminatory, and unjust laws. The transition to dictatorship is much easier than was the case when Hitler pushed aside the Weimar Constitution with its vast array of individual and social rights and constitutionally guaranteed institutions.[65]

It hence is little surprising that France, in her transitory stage from democratic constitutionalism to authoritarian fascism, could make deep inroads into the hitherto well protected domain of individual rights without being too much handicapped by limitations of positive constitutional law. Most of the familiar trimmings of authoritarian government and administration emerged in due course, such as deprivation of citizenship and confiscation of property of politically or otherwise undesirable persons; differentiation between public officials, in conflict with the principle of equality; restrictions on freedom of contract, free movement within the ter-

[64] Joseph-Barthélemy, *Précis*, p. 45 ff, refutes, with convincing reasons, the contention that the *Conseil d'État* ever has recognized in its *arrêts* the juridical existence of the Bill of Rights. It has been regarded or referred to occasionally as "the frontispiece of all republican constitutions," again as merely an ornamental *obiter dictum* and not a source of positive law.

[65] See K. Loewenstein, "Dictatorship and the German Constitution, 1933–1937," *Chicago Law Rev.*, Vol. 4 (1937), p. 545 ff.

ritory, free expression of public opinion, and freedom of assembly and association (in particular, measures against associations of employers and employees seemingly aimed at labor unionism and dissolution of freemasons and other so-called secret societies); last but not least, scantily veiled discrimination for anti-semitic reasons. All such measures are predicated outwardly on the supreme interest of national reconstruction and rejuvenation; but they reveal the common fascist pattern of arbitrariness disguised as *raison d'état*. Whether this process will be halted, once it encounters what many still believe to be the indistructible core of liberty among the French, is a question of supreme importance for France, as well as for the future of constitutional government in the world.

13. *Promulgation of the Constitutional Revision.* The constitution of 1875 maintains silence as to the promulgation, by the president of the Republic, of the perfected constitutional revision. But the theory assumes with unanimity[66] that the president, without being entitled to a veto or any other objection, is constrained, by custom as established by all previous constitutional amendments, to promulgate the results of the National Assembly without delay. On July 12, President Lebrun published in the *Bulletin Officiel* the text of the full-powers statute enacted by the National Assembly, as his last official act as titular head of the Republic. On the same day, he resigned in favor of the new "head of the state," Marshal Henry Philip Pétain.

14. *An Evaluating Summary of the Constitutional "Reform" of 1940.* Summarizing the preceding observations on the constitutionality of the proceedings employed for the revision of the French constitution in Vichy in July, 1940, it should be stated that they were carried out with a full, and even excessive, sense of legality, and in complete accordance with the requirements of the constitution which they destroyed. It was the most orderly "revolution" that ever occurred in France, commonly noted for the turbulence of her political transformations. For once, the French conducted themselves with unstinted respect for the formalities of the law—a fact which admits of different political interpretations. Either the national spirit, in its utter prostration and demoralization, simply submitted to the fact of military defeat or moral collapse; or government and the parliamentary majorities, with traditional realism,

[66] See Joseph-Barthélemy, *op. cit.*, p. 897; Esmein, *op. cit.*, Vol. II, p. 507 ff.

turned deliberately to a political order which they hoped would meet the wishes of the victors in Berlin, and even more in Rome. At the present time, the events defy any accurate interpretation.

On the other hand, the critical attitude which French constitutional theory had for a long time entertained toward the constitutional arrangements for the revision of the defunct constitution seem more than justified.[67] The system has been blamed for its lack of genuinely democratic features, since the National Assembly might decree the most far-reaching changes of, and even the death sentence on, the constitution itself, without referring the issue to the people. Whether this defect, otherwise in conformity with the concept of legislative supremacy that governed France until recently, has been remedied by the insertion of the plebiscite clause is at least an open question in view of the peculiar conditions which an authoritarian government is able to create for the expression of the "popular will." In the second place, the French procedure sins flagrantly against the prime requisite of a constitutional reform under a rigid constitution—that is, to grant an opportunity for mature consideration. This constituted always the most serious objection to the French system of constitutional amendment, and could not fail to affect also this last and most incisive "reform." Politically, the indecent haste with which the Third Republic rushed to its suicide may be understood in view of internal and external pressure. Had a more complicated and rigid procedure been provided for, with considerable delays before final action, perhaps the national spirit of democratic France would have reasserted itself, leading either to an open revolution by the French people or to a *coup d'état* by the group or class intent upon converting democratic France into a fascist satellite of the victors. Never in the years since the first World War has a nation as a whole voluntarily submitted to authoritarian government; the step was always the work of an activist minority assuming power against the will of the people. What the framers of the constitution of 1875 strongly desired, namely, extreme elasticity of the amending process, had the effect simply of removing all obstacles to a "reform" amounting to a destruction of the foundations on which the Third Republic rested for almost two generations.

[67] See Joseph-Barthélemy, *op. cit.*, p. 899.

POLITICAL GROUPS IN THE JAPANESE HOUSE OF PEERS

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I. INTRODUCTORY

The political groups in the Kizoku-in, or House of Peers, are of more importance than the scant attention paid them by both native and foreign students of Japanese government implies. In fact, one of the six groups habitually controls the House, which, in turn, is one of the strongest national second chambers existing today. As a result, the Kenkyū-kai, or Study Association, commands steady, the other groups intermittent, patronage in the form of appointments to cabinet or sub-cabinet positions and concessions to their legislative wishes.[1] The political groups in the House of Peers became a concern of Japanese statesmen shortly after the organization of the Diet in 1890; they are today debated in relation to the proposals for legislative reform which have been repeatedly urged since 1932. Although but minor wheels in the mechanism, some knowledge of their place and function is essential to an adequate understanding of the operation of the complicated Japanese political machine.

The history, organization, and influence of these groups is not easy to determine; the scarcity of reliable sources, even in Japanese, makes doubly confusing the large number of diverse yet meaningless group titles which have been employed since 1890.[2] After first

[1] Of 300 members of the 29 cabinets from Yamagata (1889–91) to Saitō (1932–34), 104 were from the House of Peers, 71 from the House of Representatives. Taking only the so-called era of party cabinets from Hara (1918–21) to Inukai (1931–32) inclusive, of 138 ministers there were 49 from each house. Even after those figures have been appropriately discounted for other less obvious, but more important, political affiliations, they suggest that the plums for which the political groups in the House of Peers may hope are both numerous and attractive. (Figures compiled from a table in *Seihyō Hakuhyō*, or "Green Ballots White Ballots," No. 4, Oct. 20, 1933, p. 18.) For a further discussion and criticism of the power which the Kenkyū-kai wields through the House of Peers, compare a passage by Minobe Tatsukichi in his *Gendai Kensei Hyōron*, or "Critique of Contemporary Constitutional Government," (Tōkyō, Iwanami, 1930), pp. 148–149.

[2] Fragmentary accounts appear in various books and articles on the reform of the House of Peers, notably *Kizoku-in Kaikaku Mondai*, or "The Problem of the Reform of the House of Peers," published in the *Asahi Seiji Keizai Shū*, or "Asahi

clarifying terminology and summarizing the relevant provisions regarding membership in the House of Peers, I propose in this paper to fit these kaleidoscopic groups into their proper historical sequence and, by so doing, to illustrate their origins in the composition of the House and in Japanese political trends. In the process, the organization and sources of strength of the Kenkyū-kai will be further explained.

II. TERMINOLOGY

The groups in the House of Peers are not recognized by Japanese as "political parties" (*seitō*), but are referred to somewhat disparagingly as *kai-ha*, or "associations and factions." To avoid confusion, I shall follow Japanese usage and reserve the word "party" for organizations such as the Seiyū-kai and Minsei-tō which campaign in the elections for the House of Representatives. A further obstacle is presented by the camouflaging of political associations as purely social clubs by peers loath to admit that they are tainted by the much denounced evils of factional organization. The resulting titles hinder rather than aid a necessary distinction between three types of political coloration. Fortunately, since 1920 groups operating within the House itself have been defined by their participation in an extra-legal inter-group negotiating committee (*kaku-ha kōshō-kai*) which allocates seats on standing committees and otherwise consults on affairs of the House.[3] To these and to organizations which seem to have performed similar functions at an earlier date,

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Series on Politics and Economics" (Tōkyō, Asahi Shimbun Sha, 1931). The article "Kenkyū-kai Seisui-ki," or "Chronicle of the Vicissitudes of the Kenkyū-kai," by Nagakawa Toshimi, in *Chūō Kōron*, or "The Central Review," Vol. 44, pp. 183–188 (Nov., 1929), is neither documented nor sufficiently detailed. By far the most helpful source is the monthly periodical *Seihyō Hakuhyō*, or "Green Ballots White Ballots" (the allusion is to the system of voting in the House of Peers) which has been published privately in Tōkyō since 1933 by a group of members of the House of Peers who maintain a research institute for the study of its problems and possible reform.

The only other discussion of these questions at any length in English is contained in an unpublished doctoral dissertation, *The Japanese House of Peers*, prepared by the author under the direction of Professor Kenneth W. Colegrove at Northwestern University in 1933.

[3] Thanks to this development, semi-official statistics on group membership have been available to the press since the 43rd Diet (June, 1920), and are published by the Secretariat of the House of Peers in the *Kizoku-in Yōran*, or "House of Peers Handbook." Figures for earlier dates are less reliable.

I shall give the name "political groups."[4] In addition, several organizations outside the House of Peers, while ostensibly purely social, have had as a major objective control of the elections of titled members. These I shall call "electioneering clubs."[5] Finally, "blocs" for the purpose of coördinating the activities of two or more groups operating within the House have occasionally been formed.[6]

III. TYPES OF MEMBERS AND THEIR RÔLES

Some of the differences between the political associations are directly related to the various categories of membership in the House of Peers, of which there are six—princes of the blood, hereditary titled members, elected titled members, representatives of the higher taxpayers, representatives of the Imperial Academy, and appointees. The members of the Imperial family take no active part in either deliberations or factional struggles. Of the five orders of the civil nobility, princes and marquises become members of the House of Peers by hereditary right on reaching the age of thirty.[7] Both groups are comparatively small and are made up of descendants of leading *daimyō* (feudal nobles) and *kuge* (court nobles), or of a few of the great statesmen of the Meiji era who received titles

[4] For further clarity, the twenty-four political groups discussed in this article are listed below with their dates:

Asahi Club	1897 –1901	Kōsei-kai	1919–
Chawa-kai	1892 –1928	Kōshi-kai	1900–1901
Dōsei-kai	1919 –	Kōyū Club	1912–
Dōwa-kai	1928 –	Mokuyō-kai	1890–1891
Doyō-kai	1901 –1919	Mokuyō-kai (2)	1898–1913
Fujimi-kai	1898 –1899?	Mushozoku-dan	1898–1919
Fusō-kai	1908 –1911	Mushozoku-dan (2)	1921–1928
Jitsugyō Club	1905?–1908?	Sanyō-kai	1891–1899
Kayō-kai	1928 –	Shingai Club	1911–1914
Kenkyū-kai	1891 –	Shinwa-kai	1922–1923
Kōin Club	1914 –1919	Teiyū-kai	1897–1904
Konwa-kai	1891 –1900	Yamato Club	1891–1894

[5] Japanese call these *senkyo botai*, or "election mother-bodies." They are rarely mentioned by the press. The eight referred to in this article follow:

Danwa-kai	1909–1911	Nijūshichi-kai	1901–1912
Gunjin Dōshi-kai	1909–1915	Seikō Club	1900–1911
Hakushaku Dōshi-kai	1907–1914	Shōyū-kai	1892–
Kyōdō-kai	1901–	Taishō-kai	1914–1919

[6] Only two such blocs, the Saiwai Club and the Shōwa-kai, will be discussed. Others may have functioned from time to time, but their status cannot now be authenticated.

[7] The minimum age was raised from twenty-five to thirty in 1925.

in recognition of their services, such as Itō, Yamagata, Ōyama, Ōkuma, Ōkubo, and Kido.[8] Prestige, small numbers, and relatively strong economic position have kept most of the hereditary members of the House of Peers independent politically.

The three remaining orders—counts, viscounts, and barons—each elect representatives to the House of Peers from among themselves—at present eighteen counts, sixty-six viscounts, and sixty-six barons.[9] Each order forms a separate constituency, chooses its own election officers, and pays its own election expenses. Because a general ticket is employed—e.g., each viscount writes in sixty-six names on his ballot—an organized majority can completely exclude minority candidates. In addition, ballots are signed and voting by proxy is permitted.[10] The peers are not slow to exploit these provisions. Although at times there have been three separate electioneering clubs for the three electorates, there are now only two: counts and viscounts are both controlled by the Shōyū-kai (Association of Old Friends), the barons by the Kyōdō-kai (Co-operative Association). The division between the barons and the two higher orders is understandable if one remembers that the latter still contain a majority of descendants of the less powerful of the old *daimyō* and *kuge* families. These form a tight and inbred social group which depends for its influence more on organization than on wealth, prestige, or recent political accomplishments.[11] The

[8] During the feudal period, the *kuge* were attached to the court of the Emperor at Kyōto, where they perpetuated the families and traditions of pre-feudal days. The *daimyō*, on the other hand, were the actual military rulers of the country, owing allegiance to the Shōgun. The two groups were amalgamated in the new nobility created in 1885.

[9] The number and distribution of titled members have been changed from time to time as indicated in the following table:

	Barons	*Viscounts*	*Counts*
1890	20	70	15
1897	35	70	15
1905	56	70	17
1909	63	70	17
1918	73	73	20
1925	66	66	18

[10] See comments on voting by proxy in "Shishaku Giin," or "Viscount Members," in *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 221.

[11] Cf. "Shishaku Giin," or "Viscount Members," in *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 221. A somewhat unfriendly account of the economic and political status of the nobility is given by Kamei Kanichirō in his "Kazoku no Botsuraku to sono Seiji Seiryoku," or "The Decline of the Peerage and Its Political Influence," in *Kaizō*, or "Reconstruction," Vol. 11, No. 2, Feb., 1929, pp. 140–146.

barons, on the other hand, include a large proportion of new blood —families which have risen to the peerage because of political, military, or industrial achievements within recent decades. Socially, politically, and financially, they can afford somewhat greater independence.

The constitutional provision for nominated members of the upper chamber has been expanded under the *Kizokuin-rei*, or "Ordinance of the House of Peers," to include two groups which are in reality elected. Sixty-six persons are chosen by small electorates (100 or 200 persons depending on the population of the district) composed of the payers of highest, direct, national taxes on land, industry, and commerce in each prefecture.[12] The successful candidates are then nominated to the House of Peers. In spite of the small number of voters, these elections are conducted much like those to the House of Representatives. Extensive and costly campaigns are the rule. In recent years, candidates have usually been publicly affiliated with either the Seiyū-kai or the Minsei-tō (the two leading parties in the House of Representatives) and, in addition, pledged to one or another of the groups in the House of Peers. In this way the high taxpayer representatives have helped to introduce the party cleavages of the House of Representatives into the upper chamber.

Since 1925, four additional members have been chosen by the Imperial Academy for appointment in a similar fashion. The academicians have always remained independent of political groupings, perhaps because of their scholarly background, their small number, and the influence of one of the first group, Dr. Onozuka Kiheiji, who has been active in the movement for the reform of the House of Peers.

The remaining 125 members are Imperial appointees in fact as well as name.[13] They are nominated by the cabinet in office at the time a vacancy occurs and hold office for life. Appointees early in the history of the House of Peers were usually ex-officials unaffiliated with parties in the House of Representatives, although seldom non-partisan in any broader sense. During the heyday of party

[12] Originally 45, the number of higher taxpayers in the House was increased in 1918 to 47 and in 1925 to the present number.

[13] The *Kizohuin-rei* originally provided that the appointees, including high taxpayers, should not exceed the total number of titled members. The limit of 125 exclusive of the high taxpayers was introduced by an amendment in 1905.

government in the late 1920's, however, nominations were made openly for party purposes. Vacancies were usually left unfilled until just before a session of the Diet or the eve of the resignation of a cabinet in order that the appointments might be used to the greatest political advantage.[14] The appointing power thus also tended to introduce into the House of Peers the political divisions of the House of Representatives.[15] Since 1936, when reform of the Diet was officially sponsored by the Hirota cabinet, however, most of the appointments have again been of ex-officials or former ministers of state. A considerable proportion of these (e.g., former Premier Hirota, former Minister of Home Affairs Gotō, etc.) have remained independents, apparently believing affiliation with political groups in either House incompatible with their previous reform proposals.

IV. THE EARLIEST POLITICAL GROUPS

Prior to the first session of the Imperial Diet, there were already certain cleavages within the various orders of the nobility. Feudalism had been abruptly terminated scarcely two decades before; its habits of thought were still strong among the peerage. As a result, there were natural divisions between the old *daimyō* and former *kuge*, between the great and lesser members of each group, and, to some degree, between leaders of the western clans, Satsuma and Chōshū, and those of politically less favored fiefs.[16] The promulgation of the Constitution and of the *Kizokuin-rei* on March 10, 1889, made imperative some organization within the orders for the purpose of discussion of election rules and selection of election officers. Accordingly, associations of barons (Danshaku Konwa-kai, Danshaku-kai), counts (Hakushaku-kai), and viscounts (Shishaku Kensei-kai, Shishaku-kai) were organized in May, September, and October, 1889, respectively. In addition to debating the election provisions, they organized groups for the study of constitutional law, as did the princes and marquises as well.[17] These associations

[14] "Chokusen Giin no Kazu to Ninmei no Jiki," or "The Number and Time of Appointment of Appointed Members," in *Seihyō Hakuhyō*, No. 2, Aug. 20, 1933, pp. 6–7.

[15] An analysis of appointed members by group affiliation, age, cabinet under which appointed, and previous occupation is given in "Chokusen Giin," or "Appointed Members," in *Seihyō Hakuhyō*, No. 1, June 30, 1933, p. 2.

[16] Cf. comments in the *Japan Weekly Mail*, Aug. 16, 1890, p. 147; Sept. 13, 1890, p. 247; Nov. 22, 1890, p. 508.

[17] "Gikai Kaikai Zen no Kaigo," or "Associations Prior to the Opening of the Diet," in *Seihyō Hakuhyō*, No. 26, Aug. 20, 1935, p. 194; No. 27, Sept. 20, 1935, pp. 202–203.

did not seek to control the first elections, but alignments which developed in connection with their organization must have laid the foundations for the later political groups. The 1890 balloting was unique in the history of the House of Peers for its freedom from political manipulation, as clearly indicated by the scattering of votes. For example, in 1890, of seventy-four counts eligible for election to fifteen seats, fifty-two received one or more votes; in 1932, on the other hand, not a single vote was cast for any count other than those successfully nominated by the Shōyū-kai.[18]

Factions crystallized between the first and second sessions of the Diet. When the House of Representatives clashed with the Matsukata cabinet in the winter of 1891–92, four political groups were already active in the House of Peers. Of these, the Kenkyū-kai, which still survives as the oldest political organization in either house, originated in November, 1891, through the addition of a number of high taxpayers and appointees to the earlier Mokuyō-kai (Thursday Association), which had been composed largely of less influential *daimyō* and *kuge*.[19] Kiyoura Keigo, who was appointed a peer between the first and second sessions, became one of its most influential leaders. The Sanyō-kai (Three Day Association) consisted almost entirely of titled members led by the *kuge* Princes Konoe and Nijō and Count Kadenokōji. The Konwa-kai (Friendly Talk Association), while led by Counts Tani and Soga and other of the more important *daimyō*, also included a number of appointees, largely from the former Genrō-in, or Senate. The Yamato Club (Japan Club) had only about ten members, half titled and half appointed.

The Sanyō-kai, Konwa-kai, and Yamato Club vigorously attacked the Matsukata cabinet with a resolution introduced by Viscount Tani which, although eventually defeated through the efforts of Kiyoura and the Kenkyū-kai, added to the embarrassment suffered by the government from attacks in the lower chamber.[20] The Cabinet hastened to strengthen its position by the appointment on December 22, 1891, of eighteen new members. Of

[18] "Dai Ikkai Haku-shi-danshaku Senkyu no Moyō," or "The Pattern of the First Election of Counts, Viscounts, and Barons," in *Seihyō Hakuhyō*, No. 28, Oct. 20, 1935, p. 207.

[19] There were further group changes between the first and second Diets, but it is difficult to secure accurate information regarding them today.

[20] *Japan Weekly Mail*, March 19, 1892, p. 378; April 23, 1892, p. 546; April 30, 1892, p. 578.

these and later appointees, some organized the Chawa-kai.[21] (Tea Discussion Association), which reënforced the Kenkyū-kai in support of the government, while others joined the Kenkyū-kai itself. Thus the position of the government in the House of Peers, which was none too solid in 1891, was gradually improved during the following years.[22]

In the meantime, an obscure yet important development had taken place. As a result of a need felt in the first by-election among the nobles in 1891, an election which had been hotly contested by the Sanyō-kai and the predecessor of the Kenkyū-kai, titled members of the latter organized an electioneering club in July, 1892.[23] The Shōyū-kai, as it was called, still survives, like the Kenkyū-kai which it supports. Baron Senge was one of its most influential founders, but in more recent years the Shōyū-kai has become exclusively an organization of counts and viscounts. The second regular election within the nobility in 1897 was actively contested. Among the viscounts, however, the Shōyū-kai forestalled revolt by setting quotas and nominating a panel of forty-five of its own supporters together with twenty-five from the opposition. This panel it was able to elect with but one exception.[24] In succeeding elections, the Shōyū-kai gradually raised its quota until complete control was secured. The resulting increasing strength of the Kenkyū-kai, plus the promotion by the appointing power of other amenable groups, might have led to relatively calm relationships between the government and the House of Peers had not a new development—the rise of party cabinets—led to internal schism.

V. REPERCUSSIONS OF PARTY CABINETS

In 1898, the clan statesmen, tired of facing a consistently hostile House of Representatives, permitted organization of a cabinet by Ōkuma and Itagaki, the leaders of the two major political parties. The belief held by many Japanese conservatives that party cabinets were both undesirable and unconstitutional was particularly

[21] The characters for Chawa-kai may also be read Sawa-kai, and early English language sources sometimes employ the latter reading.

[22] "Chokusen Giin," or "Appointed Members," in *Seihyō Hakuhyō*, No. 31, Jan. 20, 1936, p. 230.

[23] "Shishaku Giin," or "Viscount Members," *ibid.*, No. 30, Dec. 20, 1935, p. 221.

[24] "Shishaku Giin," or "Viscount Members," *ibid.*, No. 30, Dec. 20, 1935, p. 221. Cf. the report on the strength of the Shōyū-kai in *Japan Weekly Mail*, July 24, 1897, p. 82.

strong among the appointed ex-officials in the House of Peers. A number of these organized a new group known as the Mushozoku-dan (Independent Body) which coöperated with Kiyoura Keigo of the Kenkyū-kai and Hirata Tōsuke of the Chawa-kai in a movement to force the resignation of the Ōkuma-Itagaki cabinet by an address to the Throne censuring certain allusions to democracy which had been made by the minister of education, Ozaki Yukio.[25] Even before the Diet met, however, Ozaki resigned and the cabinet, unable to agree on a successor, collapsed. Since the views of the Mushozoku-dan were similar to those of the Chawa-kai, the leaders of the two organized a social club-house, the Saiwai (Good Fortune) Club in 1900 through the directorship of which their political moves could be coördinated. The Saiwai Club long served as a headquarters for opposition to party cabinets by ex-officials.[26]

A miscellaneous group known as the Fujimi-kai (Fuji Viewing Association) appeared momentarily in 1898. The following year the Sanyō-kai broke up. Princes Nijō and Konoe joined with a number of high taxpayers resigning from the Konwa-kai to organize the Asahi (Rising Sun) Club. In 1900, most of the appointees remaining in the Konwa-kai organized the Kōshi-kai (Kōshi, or Ka-no-e Ne, is a cyclical designation for the year 1900) which reunited with the Asahi Club in December, 1901, as the Doyō-kai (Saturday Association). The political relationship of these shifts to the issue of party cabinets and to the changes taking place among other groups in the House of Peers is not clear.

Following the elections of 1897, a group of high taxpayers organized the Teiyū-kai (Teiyū, or Hi-no-to Tori, is a cyclical designation for the year 1897). It achieved temporarily a maximum strength of about twenty-seven, but disappeared after the elections of 1904. This and the Jitsugyō (Business) Club, a smaller and short-lived organization of high taxpayers elected in 1904, appear to be the only groups formed exclusively from this class of members.[27]

[25] See the letter of Kiyoura to Yamagata reproduced by Tokutomi Iichirō in his *Kōshaku Yamagata Aritomo Den*, or "Biography of Prince Yamagata Aritomo" (Tōkyō, Yamagata Aritomo Kō Kinen Jigyō Kai, 1933), Vol. III, pp. 328–330.

[26] "Chokusen Giin," or "Appointed Members," in *Seihyō Hakuhyō*, No. 31, Jan. 20, 1936, p. 230.

[27] This paragraph and the preceding one are based on a comparative analysis of membership lists contained in an unpublished "Kizoku-in Giin Kakuha Betsu ni Kansuru Chōsa," or "Investigation Regarding the Division by Groups of the Membership of the House of Peers," compiled by the research organization which

The barons have so far been neglected because, with only twenty seats, they were relatively unimportant politically during the first seven years of the House of Peers. As new elevations to the peerage rapidly swelled their ranks, however, their representation was increased as well—to thirty-five in 1897 and to fifty-six in 1904. In 1898, a majority joined a new group, the Mokuyō-kai (Thursday Association, but unrelated to the original Mokuyō-kai of 1890–91), which was based on a new electioneering club, the Nijūshichi-kai (Association of Twenty-seven) led by Baron Senge and others, mostly of the older nobility. The Nijūshichi-kai failed, however, to secure the support of the many new barons created in 1900 for services in connection with the Sino-Japanese War. After an unusually close by-election in 1901, a rival electioneering club, the Kyōdō-kai, appeared.[28]

Itō in 1899 sought to break the stalemate into which constitutional government had fallen by sponsoring a new political party, the Seiyū-kai, which would assure Diet support for him and his ideals of government. This move was criticized by Yamagata and other conservative political leaders who feared a tendency toward ministerial responsibility to the Diet which they believed incompatible with the traditional position of the Emperor in the Japanese state. This hostility was reflected in the House of Peers, where ex-officials were numerous, and where supporters of Yamagata outnumbered those of Itō; it was aggravated there by the belief that Itō, relying unduly on his unchallenged domination of the House of Representatives, did not give the House of Peers the consideration to which its constitutional position of equality with the lower chamber entitled it. The attack was led by the Kenkyū-kai and the two groups of the Saiwai Club, but was abetted by all six groups in the House of Peers. They demanded that Itō dismiss his minister of communications, Hoshi Tōru, then the subject of rumors of serious political scandals. When Itō failed to comply, the budget committee of the House of Peers reported unfavorably the tax increase bill which Itō had been forced to introduce to meet the emergency expenses connected with the expeditionary force sent

publishes *Seihyō Hakuhyō*. For reports of further attempts, apparently unsuccessful, to form groups of high taxpayers, see *Japan Weekly Mail*, May 14, 1892, p. 639, and *Japan Weekly Chronicle*, Oct. 29, 1925, p. 557.

[28] "Danshaku Giin," or "Baron Members," in *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 223.

to relieve the Peking legations during the Boxer troubles. Hoshi resigned in time to evade a motion of censure, but Itō was forced to appeal to Yamagata and Matsukata to mediate on the tax measures. Although the *genrō* (elder statesmen) recognized the necessity for the tax increase, compromise measures broke down and Itō was finally able to secure affirmative action by the House of Peers only by resort to coercion through an Imperial rescript. Subsequent party cabinets have been forced to share their prerogatives with the upper chamber.[29]

The elections of 1904 took place during the Russo-Japanese War and were outwardly calm. The Kenkyū-kai was able to increase its quota of the viscount seats to sixty-one, leaving only nine for the opposition, and won eleven of the seventeen member counts as well.[30] Among the barons, a compromise between the Kyōdō-kai and the Nijūshichi-kai was facilitated by the considerable increase in number of seats (35 to 56) which left room for both.

From 1901 to 1913, super-party cabinets under Katsura alternated with Seiyū-kai cabinets under Saionji. In the House of Peers, Katsura enjoyed the support of the Kenkyū-kai and of most of the bureaucratic appointees of past years.[31] The first Saionji cabinet, as might be expected, was less fortunate; for example, the upper chamber rejected its bill for abolition of the district system—a measure desired by the parties in the House of Representatives.[32]

[29] See Tokutomi Iichirō, *Kōshaku Yamagata Aritomo Den*, Vol. III, pp. 435–459, but particularly the letters of Kiyoura Keigo to Yamagata reproduced on pp. 448–450 and 454–456; "Chokusen Giin," or "Appointed Members," *Seihyō Hakuhyō* No. 31, Jan. 20, 1936, p. 230; "Gikai ni okeru Kizoku-in Kikō no Kaisei," or "Revision of the Organization of the House of Peers in the Diet," *Seihyō Hakuhyō*, No. 16, Oct. 20, 1934, p. 113; see also a quotation in *Zoku Itō Hirobumi Hiroku* (Private Records of Itō Hirobumi, Continued. Edited by Hiratsuka Atsushi. Tōkyō, Shunjūsha, 1930, pp. 134–135) from the diary of Prince Konoe Atsumaro, then president of the House of Peers, to the effect that he considered party cabinets incompatible with the Japanese polity (*kokutai*) and particularly objected to the appointment of Hoshi.

[30] "Shishaku Giin," or "Viscount Members," *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 221.

[31] "Chokusen Giin," or "Appointed Members," *Seihyō Hakuhyō*, No. 31, Jan. 20, 1936, p. 230. Tokutomi Iichirō says that Katsura made a special effort to gain the support of the peers at the time of his first cabinet. (*Kōshaku Katsura Tarō Den*, or "Biography of Prince Katsura Tarō." Tōkyō, Ko Katsura Kōshaku Kinen Jigyō Kai, 1917, Vol. II, p. 10.)

[32] "Chokusen Giin," or "Appointed Members, *Seihyō Hakuhyō*, No. 31, Jan. 20, 1936, p. 231.

Saionji, nevertheless, had a few friends among the elected peers. In 1907, some of the counts who were more open-minded toward party government took advantage of the chronic discontent with the Shōyū-kai and of the sympathy of the Saionji cabinet and organized a new electioneering club, the Hakushaku Dōshi-kai (Counts' Like-minded Association). The Hakushaku Dōshi-kai, by successfully contesting by-elections with the Shōyū-kai, encouraged the resignation from the Kenkyū-kai of a number of counts and their coöperation in the organization in December, 1908, of a new political group, the Fusō-kai (Fusō is a mythological name for Japan).[33]

Prince Saionji, in March, 1908, sought to improve his relationships with the House of Peers by appointing Viscount Horita of the Kenkyū-kai minister of communications and Baron Senge of the Mokuyō-kai minister of justice. Although their acceptance seemed to be a sign of growing progressivism among the peers, it led, both within the Kenkyū-kai and among the barons, to a reaction which was hastened by the return to power of Prince Katsura in July, 1908.

Katsura first bought the support of the Kenkyū-kai by sponsoring a new revision of the *Kizokuin-rei* favorable to the viscounts but unfavorable, in the long run, to the barons.[34] A number of maneuvers within the various orders and groups followed which, whether actively encouraged by Katsura or not, reacted in his favor. In February, 1909, an electioneering club for viscounts, opposed to the Shōyū-kai, was formed under the name Danwa-kai (Conversation Association). At first it was joined by military men and others who had objected to the entrance of Viscount Horita into the Saionji cabinet. When the Kenkyū-kai expelled Horita in April, however, this anti-party group deserted the Danwa-kai. As a result, the Danwa-kai, which had had no time to consolidate its position, lost

[33] "Haku-shi-danshaku Giin," or "Count, Viscount, and Baron Members," *Seihyō Hakuhyō*, No. 29, Nov. 20, 1935, p. 216.

[34] "Danshaku Giin," or "Baron Members, *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 223. The details of this controversy are very involved. Cf. "Gikai ni okeru Kizoku-in Kikō no Kaisei," or "Reform of the Organization of the House of Peers within the Diet," *Seihyō Hakuhyō*, No. 17, Nov. 20, 1934, pp. 120–122. Tokutomi denies that the reform bill was aimed against the barons, but admits that it was presented to satisfy the Kenkyū-kai and that Katsura's compliance in this regard strengthened his support in the House of Peers, *Kōshaku Katsura Tarō Den*, Vol. 2, pp. 386–389.

heavily in a series of by-elections, disintegrated rapidly, and was mortally defeated by the Shōyū-kai in the elections of 1911.[35]

Ninety new peerages as a result of the Russo-Japanese War again considerably modified the electorates, particularly that of the barons. Active or retired generals and admirals became an important factor; in 1909, they organized the Gunjin Dōshi-kai (Military Men's Like-minded Association), an electioneering club favorable to the Kyōdō-kai in the baronial elections but opposed to the Nijūshichi-kai. This new pressure caused the Mokuyō-kai, which had supplied Baron Senge to the Saionji cabinet, to lose heavily by resignations during 1910. Some of those leaving formed a fourth electioneering club, the Seikō (Pure Intercourse) Club, which cooperated with both the Kyōdō-kai and the Gunjin Dōshi-kai. As a result, the Nijūshichi-kai lost control and about half of the barons remaining in the Mokuyō-kai failed of reëlection in 1911. The others survived only through the clemency of the victors. Although the Mokuyō-kai lingered on until 1913, its influence was gone.[36]

Among the counts, too, the Hakushaku Dōshi-kai, which had been organized under the Saionji cabinet, weakened after the return of Katsura and was defeated in the 1911 elections. The pro-Katsura counts organized the Shingai Club (Shingai or Ka-no-to I is a cyclical designation for the year 1911) to replace the Fusō-kai in the House of Peers.[37]

Although a united front against party government seemed thus well established, it soon collapsed when Katsura, after the fall of his third cabinet, attempted to retrieve his political fortunes by a party alliance. His organization of the Dōshi-kai, or Party of Like-minded Persons, in 1913 irreparably split the government supporters in the House of Peers, as had that of the Seiyū-kai by Prince Itō fourteen years earlier.[38] Some of the personal followers of Katsura in the House of Peers became members of the Dōshi-kai or

[35] "Shishaku Giin," or "Viscount Members," *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 222. Also "Seiji Jōsei to Kizoku-in Kaikaku," or "Political Conditions and Reform of the House of Peers," *Ibid.*, No. 22, April 20, 1935, p. 160; No. 23, May 20, 1935, pp. 171–172.

[36] "Danshaku Giin," or "Baron Members," *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 223.

[37] "Haku-shi-danshaku Giin," or "Count, Viscount, and Baron Members," *Seihyō Hakuhyō*, No. 29, Nov. 20, 1935, p. 216.

[38] "Chokusen Giin," or "Appointed Members," *Seihyō Hakuhyō*, No. 31, Jan. 20, 1936, p. 231.

aided in its organization. Other peers severely criticized such action; while not opposed to the organization by Katsura of a new party in the House of Representatives, they believed that the peers, to fulfill the special function assigned to them under the Constitution, must preserve their independence from all such political bodies in the lower chamber. In this they had the moral support of the *genrō*, Prince Yamagata. Even Hirata Tōsuke of the Chawa-kai, who had been minister of agriculture and commerce in the first Katsura cabinet and home minister in the second, nevertheless not only refused to join the Dōshi-kai, but also urged his colleagues in the House of Peers to adopt a similar non-coöperative policy.[39] By this time, however, the peers irreconcilably opposed to all party cabinets had been greatly reduced in numbers. Consequently, although the reaction weakened the supporters of Katsura and the Dōshi-kai, it led to the adoption by most of the peers of a policy of impartiality as between the various parties in the House of Representatives but association with none. Since 1913, a majority of the peers have been prepared to deal with any cabinet, be it party or super-party, provided only that it in turn take the political views of the peers into consideration and give them a share in the patronage.

In the meantime, appointments during the first and second Saionji cabinets were beginning to have their effect, and in December, 1912, a group of Seiyū-kai supporters in the House of Peers organized the Kōyū (Association with Friends) Club.[40] This group, which includes both appointees and high taxpayers, is still active. Although the Kōyū Club claims to conform to the principle of impartiality mentioned above, most of the appointees associated with it owe their membership in the House of Peers to nominations by Seiyū-kai cabinets.[41] The Kōyū Club and the Kenkyū-kai cooperated in supporting both the Terauchi and Hara cabinets.[42]

[39] See a letter from Hirata to Yamagata and accompanying text in *Kōshaku Yamagata Aritomo Den*, or "Biography of Prince Yamagata Aritomo," by Tokutomi Iichirō, Vol. III, pp. 839–840.

[40] "Chokusen Giin," or "Appointed Members," *Seihyō Hakuhyō*, No. 31, Jan. 20, 1936, p. 231.

[41] "Chokusen Giin," or "Appointed Members," *Seihyō Hakuhyō*, No. 1, June 30, 1933, p. 2; No. 31, Jan. 20, 1936, p. 231.

[42] "Chokusen Giin," or "Appointed Members," *Seihyō Hakuhyō*, No. 31, Jan. 20, 1936, p. 231. Also "Seiji Jōsei to Kizoku-in Kaikaku," or "Political Conditions and Reform of the House of Peers," *Seihyō Hakuhyō*, No. 24, June 20, 1935, pp. 178–179.

Summarizing these developments, the strength of the various groups at the end of the first year of Taishō (1912) is reported as follows:[43]

Kenkyū-kai	107	Mokuyō-kai	10
Chawa-kai	61	Shingai Club	11
Mushozoku-dan	67	Kōyū Club	24
Doyō-kai	29	Independents	56

VI. CONSOLIDATION OF THE PEERAGE ELECTORATES

The discrediting of Katsura's followers by their advocacy of the Dōshi-kai produced a continuation of the group maneuvers initiated in 1908. The Hakushaku Dōshi-kai gradually recuperated, but disbanded in 1914, although quite strong, in order that the counts might be reunited in a new electioneering club, the Taishō-kai (Taishō is a *nengō*, or era name, for the period 1912–26). On this foundation, a new political group, the Kōin Club (Kōin or Ki-no-e Tora is a cyclical designation for the year 1914) was for the first time able to unite all the counts in the House of Peers—thirteen as regular members and four, who still retained membership in the Kenkyū-kai, as associates.[44]

Successful electioneering by the Shōyū-kai in the 1918 election left only one viscount member of the House of Peers who was not a member of the Kenkyū-kai. Although the barons remained distributed among the Mushozoku-dan, the Chawa-kai, and other groups until 1919, a merger in 1915 of the Gunjin Dōshi-kai with the Kyōdō-kai had prepared the way for an eventual new political group.[45]

The elections of 1918 were followed a year later by a realignment. The Kōin Club and the Taishō-kai were dissolved, and all twenty counts joined the Kenkyū-kai and the Shōyū-kai. Dissolution of the Doyō-kai brought the one remaining viscount into the fold. Since that time, every elected count and viscount in the House of Peers has been a member of the Kenkyū-kai.[46] In 1919, the counts talked of reforming both the managing personnel and the rules of

[43] Kudō Takeshige, *Taishō Kensei Shi*, or "Constitutional History of Taishō" (Tōkyō, Yuhikaku, 1927), p. 9.

[44] "Haku-shi-danshaku Giin," or "Count, Viscount, and Baron Members," *Seihyō Hakuhyō*, No. 29, Nov. 20, 1935, pp. 216–217.

[45] "Shishaku Giin," or "Viscount Members," *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 222. "Danshaku Giin," or "Baron Members," *ibid.*, p. 223.

[46] "Shishaku Giin," or "Viscount Members," *Seihyō Hakuhyō*, Nov. 30, Dec. 20, 1935, p. 222.

the Kenkyū-kai; but this laudable ambition was apparently subsequently forgotten, at least until 1927.[47] In June, the barons in the Mushozoku-dan and the Chawa-kai withdrew and organized the Kōsei-kai with sixty-three members.[48] Ten barons retained membership in the Kenkyū-kai and supported the Shōyū-kai in futile efforts to wrest electoral control of the barons from the Kyōdō-kai in subsequent by-elections. These ten in 1922 joined a few barons from the Kōsei-kai in organizing the Shinwa-kai (Brotherly Harmony Association), which survived only one year. They were temporarily reënforced by the adhesion of Viscount Mizuno, a Shōyū-kai boss who, in 1923, led them all back to the Kenkyū-kai.[49] This dissident group of barons was liquidated by the complete victory of the Kyōdō-kai in the 1925 elections.

Some non-titled members of the Mushozoku-dan and of the Doyō-kai united on November 15, 1919, to form the Dōsei-kai (Like Action Association), which continues today as a political group of appointees and high taxpayers.[50] Like the Kōyū Club, it claims to be non-partisan, yet, just as the membership of the Kōyū Club shows a strong Seiyū-kai coloration, that of the Dōsei-kai indicates Minsei-tō leanings. Of fifteen appointed members of the Dōsei-kai in 1933, fourteen had been appointed under the Ōkuma, Katō Kōmei, Wakatsuki, and Hamaguchi cabinets. The fifteenth was a holdover from Yamagata days.[51]

The Kenkyū-kai, having consolidated its position electorally and secured the adhesion of the counts, reached the peak of its strength in the early 1920's. Count Ōki was appointed minister of justice in the Takahashi cabinet (1921–22). Of the eleven members of the cabinet of Baron Katō Tomosaburō, no fewer than six were members of the upper chamber—three from the Kenkyū-kai and three from the Kōyū Club. When Viscouut Kiyoura Keigo, who had been one of the early leaders of the Kenkyū-kai, received the Imperial command to organize a cabinet in January, 1924, he probably hoped to secure the support in the House of Representatives

[47] "Haku-shi-danshaku Giin," or "Count, Viscount, and Baron Members," *Seihyo Hakuhyō*, No. 29, Nov. 20, 1935, p. 217.

[48] Cf. *Japan Weekly Chronicle*, June 26, 1919, p. 976.

[49] "Shishaku Giin," or "Viscount Members," *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 222. "Danshaku Giin," or "Baron Members," *ibid.*, pp. 223–224.

[50] *Japan Weekly Chronicle*, Nov. 20, 1919, p. 774.

[51] "Chokusen Giin." or "Appointed Members," *Seihyō Hakuhyō*, No. 1, June 30, 1933, p. 2.

of the Kensei-kai (Constitutional Government Association, predecessor of the present Minsei-tō) and of the dissident Tokonami faction of the Seiyū-kai. When this failed through the opposition of Viscount Katō Kōmei, president of the Kensei-kai, however, Kiyoura organized a super-party cabinet relying for support almost solely on the House of Peers.[52] The parties, deprived of the growing share in cabinet organization which they had come to command and expect, united under the slogan of "protection of constitutional government" in a drive for the defeat of Kiyoura. The cabinet fell after only six months in office and was succeeded by a coalition under Katō which embarked on a popular campaign for reform of the House of Peers. The peers and the Kenkyū-kai, having over-played their hand, were forced into a defensive position from which they have never since completely extricated themselves.[53]

The reform campaign nevertheless proved abortive. Although the number of elected nobles was reduced slightly, the election provisions for the high taxpayers were modified, and representatives of the Imperial Academy were added, the Kenkyū-kai deflected the attack from the foundations of its power—the general ticket in the peerage elections and the rule of the group caucus. In the following 1925 election, the Shōyū-kai was able to maintain discipline and complete control of all viscounts and counts elected in spite of the painful necessity of weeding out seven members. Among the barons, whose numbers were also reduced from seventy-three to sixty-six, the Kyōdō-kai neatly solved the same problem by eliminating all members still acknowledging allegiance to the Kenkyū-kai instead of to the Kōsei-kai.[54] On the opening day of the Fifty-first Diet, November 26, 1925, the groups stood as follows:[55]

Kenkyū-kai	154	Chawa-kai	27
Kōsei-kai	66	Mushozoku-dan	27
Kōyū Club	40	Independents	43
Dōsei-kai	28		

Since 1925, the Kenkyū-kai and the Kōsei-kai have retained their

[52] Cf. Itō Seitoku, *Katō Kōmei*, or "Biography of Katō Kōmei." (Tōkyō, Katō Haku Denki Hensan Iin-kai, 1929), Vol. II, pp. 454–457.

[53] See "Gikai ni okeru Kizoku-in Kikō no Kaisei," or "Revision of the Organization of the House of Peers within the Diet," *Seikyō Hakuhyō*, No. 20, Feb. 20, 1935, pp. 141–142.

[54] "Danshaku Giin," or "Baron Members," *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 224.

[55] *Kizoku-in Yōran*, or "House of Peers Handbook" (Tōkyō: House of Peers Secretariat, December, 1935), Vol. III, table opposite p. 54.

respective electoral monopolies unchallenged. When the Bank of Taiwan precipitated a financial panic by closing its doors in 1927, the two groups were able to utilize their influence to secure government relief for the Fifteenth Bank, in which the peerage was heavily interested.[56]

VII. MOVEMENTS FOR REFORM WITHIN THE HOUSE OF PEERS

Although the Kenkyū-kai thus evaded the national movement for reform, it could not so easily avoid growing antagonisms within its own ranks and between it and other groups in the House of Peers. The counts and younger viscounts were dissatisfied with their virtual exclusion from power in the directorship of the Kenkyū-kai under the old leaders, while the princes and marquises who were members feared that the dignity and prestige of their rank were endangered by continued association with a political machine in such ill repute with the general public. This was, for example, the attitude of Prince Konoe Fumimaro, who had joined the Kenkyū-kai in 1922 with some ambition to lead in its reform. Moreover, the opposing political groups in the House of Peers exploited the popular agitation against the Kenkyū-kai to their own advantage. In conjunction, these forces precipitated an interesting series of developments which began in 1927 and has not yet run its course.

The five groups opposed to the Kenkyū-kai had previously had no unified organization for joint action, although two of them were associated through the Saiwai Club.[57] In 1927, they forgot their jealousies sufficiently to enter into an informal union "for the purpose of mutual friendship and the joint examination of governmental affairs." The Shōwa Club (Shōwa is the *nengō*, or era name, for the period since 1926), as the new bloc was called, was formally organized on October 14, and included the Kōsei-kai, the Dōsei-kai, the Chawa-kai, the Kōyū Club, and the Mushozoku-dan.[58] An

[56] For reference to the appeals of Viscounts Mizuno and Aoki of the Kenkyū-kai and of Baron Fujimura of the Kōsei-kai to the Seiyū-kai, the Minister of Finance, and the Bank of Japan, see the *Tōkyō Asahi*, July 26, 1927, 26–6. All citations to the *Asahi* in this article employ the dating and pagination of the *Shukusatsu Han*, or monthly "Reduced Size Edition" for reference use.

[57] The Katō cabinet is reported to have attempted to effect an amalgamation in 1925, but without result. *Japan Weekly Chronicle*, Oct. 29, 1925, p. 567.

[58] *Tōkyō Asahi*, Oct. 1, 1927, 1-6; Oct. 15, 1927, 15-6; *Jiji Shimpō*, Oct. 15, 1927, p. 2 (morning edition); Nagakawa Toshimi—"Kenkyū-kai Seisui Ki," or "Vicissitudes of the Kenkyū-kai," in *Chūō Kōron*, Vol. XLIV, No. 11, Nov., 1929, pp. 183–188.

office was established and a joint committee of ten for the investigation of public affairs was formed, with two representatives from each of the five component factions. The constituent groups did not sacrifice their own independence, however, and, in spite of urging, refused to merge into a single political group having joint powers of negotiation in the affairs of the House. The individual members were not to be bound by the decisions of the group caucus.[59] As a result of this looseness of organization, the Shōwa Club, although counting nearly two hundred members at the time of organization, was no match for the smaller Kenkyū-kai against which it was directed.[60]

The organization of the Shōwa Club brought to a head the internal difficulties of the Kenkyū-kai. The first serious break occurred the following month (November, 1927), when six princes and marquises, led by Prince Konoe, resigned because of dissatisfaction with the autocratic rule of the group leaders and concern over the disrepute into which it brought the hereditary peerage.[61] The six immediately undertook formation of a group of their own which was to rise above factional disputes and maintain the dignity and impartiality which they considered the fundamental principle of the nobility.[62] In this they were joined by some eight marquises from the Mushozoku-dan and by others from the Dōsei-kai and independents. Organization of the group was well under way by the end of November and was completed in March, 1928, under the name Kayō-kai (Tuesday Association), from the day set for weekly meetings.[63] It is still in existence and is composed exclusively of the two highest orders of the nobility. For some years it has actively advocated reform of the House of Peers.

Dissatisfaction with the weak organization of the Shōwa Club led, in the meantime, to the amalgamation of the Chawa-kai and Mushozoku-dan on February 1, 1928, under the name of Dōwa-kai (Joint Harmony Association).[64] The Dōwa-kai has no fixed political

[59] For the by-laws of the Shōwa Club, see *Jiji Shimpō*, Oct. 28, 1927, p. 3, or *Tōkyō Asahi*, Oct. 26, 1927, 26-6.

[60] Cf. *Jiji Nenkan*, or "Jiji Yearbook," 1929, p. 111.

[61] *Tōkyō Asahi*, Oct. 26, 1927, 26-6; Nov. 13, 1927, 13-6; *Asahi Nenkan*, or "Asahi Yearbook," 1929, p. 232.

[62] Cf. *Kizoku-in Kaikaku Mondai*, or "The Problem of the Reform of the House of Peers," p. 89.

[63] *Tōkyō Asahi*, Nov. 29, 1927, 29-6; Nov. 30, 1927, 30-1; March 14, 1928, 14-6; March 17, 1928, 17-1.

[64] Cf. *Jiji Nenkan*, or "Jiji Yearbook," 1929, p. 111; *Tōkyō Asahi*, Feb. 2, 1928, 2-1.

policy and includes both nominees and high taxpayers and both Minsei-tō and Seiyū-kai adherents. Its members are not bound by the vote of the party caucus.[65]

VIII. POLITICAL STRUCTURE OF THE KENKYŪ-KAI

The organization of the Kayō-kai, the Shōwa Club, and the Dōwa-kai were both indications of and stimuli to continued ferment, which cannot be understood without more detailed analysis of the internal political structure of the Kenkyū-kai. In recent years, the group has had from 140 to 170 members, of whom the sixty-six viscounts and seventeen counts under the control of the Shōyū-kai usually constitute a majority. The directors of the Shōyū-kai maintain their influence by political and social pressure and by utilization, through control of the election officials, of various peculiarities of the electoral regulations—the general ticket, signed ballot, and vote by proxy. A count or viscount can secure a seat in the House of Peers only through the support of the directors of the Shōyū-kai; and that, of course, can be obtained only by promise of loyalty to the Kenkyū-kai and its leaders within the House of Peers.[66]

The Kenkyū-kai alone among the six political groups in the House forces its members to vote in important divisions according to the majority decision of a group caucus.[67] On crucial matters, internal discipline is assured by demanding a roll-call vote. Conversely, the roll-call is sometimes opposed by the Kōsei-kai or other groups when they are in disagreement with the position of the Kenkyū-kai directorate.[68] With a disciplined near majority, the Kenkyū-kai can usually control the decisions of the House. It is this dominating political position and the prerogatives that go

[65] Cf. *Kizoku-in Kaikaku Mondai*, or "The Problem of the Reform of the House of Peers," p. 89; *Tōkyō Asahi*, Feb. 2, 1928, 2-1.

[66] The degree of "boss" control over individual count or viscount members varies, of course, with the time and the individual. It was weakened, for example, in the period 1927–29, which we are discussing, because of rivalry between "bosses" and followers.

[67] Article 10 of the by-laws of the Kenkyū-kai (*Kenkyū-kai Kisoku*). Article 11 provides that members seeking exception from this rule in a given case may petition the Board of Directors. Such a petition must be acted upon by the Boards of Directors and Councillors jointly, but cannot be refused except by a two-thirds vote of those present. An escape is thus provided where caucus rule would work individual hardship, although control is still firmly held by the Directors.

[68] Cf. "Kimei Tohyō to Mumei Tohyō," or "Signed and Unsigned Balloting," *Seihyō Hakuhyō*, No. 25, July 20, 1935, pp. 183–185.

with it which attract to the Kenkyū-kai appointed members or high taxpayers who wish to share in either the manipulation or the fruits of political power. Elimination of either the general ticket in the elections of the nobility or the rule of the party caucus within the House of Peers would eventually cripple the Kenkyū-kai.

The officers of the Kenkyū-kai include two managers (*kanji*), not more than three comptrollers (*kaikei kantoku*), a board of directors (*jōmu iin-kai*), and a board of not more than twenty-one councillors (*kyōgiin*). All are elected by general ticket and secret ballot by the members of the group, the directors for rotating terms of two years, the others each for a single year. Regular elections occur in May, special elections when necessary to fill vacancies. The managers handle current administration. Although general executive control is nominally in the hands of the board of directors, the real center of gravity may shift back and forth between them and the councillors, depending more on the personnel of each group at a given time than on the provisions of the rules regarding them. Informal, yet rigidly applied, quotas for the election of counts, viscounts, appointees, and high taxpayers, respectively, as directors and councillors facilitate maintenance of harmony and discipline in the somewhat heterogeneous membership of the group. In addition, a political investigation bureau (*seimu shinsa bu*) carries on continuous study of political questions. This and similar bureaus of the other groups serve an important function in maintaining liaison between Government and Diet. In times of political crisis, the Kenkyū-kai bureau has met continuously between sessions of the Diet, and has been able to secure the attendance of cabinet ministers or vice-ministers for questioning.[69] The rules of the other groups in the House of Peers differ primarily in simplicity and freedom from the control of a group caucus.

The present rules of the Kenkyū-kai are in part the result of

[69] Cf. *Tōkyō Asahi*, July 7, 1936, p. 102. Such bureaus may also function as lobbies for special interests. For example, the special committee for the study of the bill for nationalization of the power industry which was set up by the Kōsei-kai in 1936 included the president of the Japan Economic League (concurrently chairman of the board of the Shōwa Fertilizer Company), the president of the South Seas Development Company (concurrently a director of the Ōsaka Shōsen Kaisha), a former director of the Tōyō Electric Company, an adviser to the Mitsubishi Gōshi Kaisha, and directors or ex-directors of a number of other important corporations. (The membership of the committee is given in the *Tōkyō Asahi*, July 14, 1936, p. 204.)

agitation begun in 1927–28 by some of the counts and younger viscounts led by Viscount Watanabe for the ousting of the old group dictators, Viscounts Aoki and Mizuno, and for liberalization of the by-laws.[70] The contest first centered on the election of a new panel of directors in December, 1928. Under the old rules, nominations equal to the number of positions to be filled would have been drafted by the existing managers and ratified by a meeting of the group—an arrangement greatly hampering individual initiative, although a strong minority might receive some recognition in the nominations. The reform group wanted more leeway given to the membership as a whole and demanded that Aoki be retired and Watanabe elected. It was finally agreed to make one more nomination in each category—counts, viscounts, appointees, and high taxpayers—than the number of vacancies to be filled, and to permit voting by general ticket but secret ballot on the resulting panel. The new list of candidates included both Aoki and Watanabe, and both were elected.[71] This compromise, followed in 1929 by the death of Viscount Mizuno and the withdrawal to the Board of Councillors of Aoki and a number of other directors, resulted in the recognition of younger men without either sudden or complete relinquishment of political influence by the older bosses.[72]

Continued discontent culminated in 1929 in a project for the elimination of caucus rule. The question was of great importance, for, as indicated above, it involved the whole future of the Kenkyūkai. While the old rule invited criticism within and without the House of Peers, many of the non-titled members of the group had joined solely on account of the advantages inherent in strong organization and would probably have withdrawn in case of modification.[73] For a time, reform was in the ascendancy; a committee recognized the necessity of revision and drafted a compromise whereby solidarity was to be retained in principle, but not to be enforced against a minority able to muster one-third of the members present at the party caucus.[74] The adoption of this resolution

[70] For accounts of the reform movement, see *Jiji Shimpō*, Oct. 18, 1927, p. 3; *Ōsaka Mainichi* (English edition), Oct. 23, 1927, p. 2; Oct. 30, 1927, p. 1; *Tōkyō Asahi*, Dec. 16, 1928, 16-7.

[71] *Tōkyō Asahi*, Dec. 13, 1928, 13-6; Dec. 21, 1928, 21-1. See also *Mainichi Nenkan*, or "Mainichi Yearbook," 1930, p. 67.

[72] "Shishaku Giin," or "Viscount Members," *Seihyō Hakuhyō*, No. 30, Dec. 20, 1935, p. 222.

[73] *Tōkyō Asahi*, April 27, 1929, 27-6. [74] *Ibid.*

appeared certain on the first of September, 1929, with the final vote only two days off. On the second, however, the new Hamaguchi cabinet was announced, with Viscount Watanabe, leader of the insurgent wing of the Kenkyū-kai, as minister of justice. Watanabe's entrance into the cabinet weakened his influence in the group by compelling him to resign his position on the board of directors and, at the same time, made his followers reluctant to give up the weapon of block voting which could be used to support the cabinet. The substitute resolution adopted on September 3 left caucus control almost unimpaired.[75] Since 1929, the rules have remained unreformed, although the personnel manipulating them has changed.

IX. RECENT TRENDS

The influence of the parties of the House of Representatives on the high taxpayers became more evident in the 1932 septennial election, which was hailed as a victory for the Seiyū-kai. While most high taxpayers campaigned publicly as Minsei-tō or Seiyū-kai candidates, affiliations with the recognized groups in the House of Peers were not mentioned in the newspaper reports, and the Kenkyū-kai abandoned its former policy of securing adhesions from prospective peers in advance of their seating.[76] In the elections of titled members in the same year, the Kenkyū-kai maintained its monopoly of the counts and viscounts and the Kōsei-kai that of the barons. The Dōsei-kai was somewhat weakened.[77] Since that time, the political groupings in the House of Peers have remained relatively stable, as can be seen by the following comparison:[78]

	Dec., 1932	*Dec., 1937*
Kenkyū-kai	150	162
Kōsei-kai	69	66
Kōyū Club	39	34
Dōwa-kai	39	33
Kayō-kai	34	43
Dōsei-kai	25	23
Independents	31	31

[75] Nagakawa, Toshimi, "Kenkyū-kai Seisui Ki," or "Vicissitudes of the Kenkyū-kai," p. 188; *Mainichi Nenkan*, 1931, pp. 70–71; *Tōkyō Asahi*, July 4, 1929, 4-6; June 12, 1929, 12-6; June 14, 1929, 14-6; *Jiji Shimpō*, July 4, 1929, p. 1; *Jiji Nenkan*, 1930, p. 119.

[76] *Tōkyō Asahi*, July 22, 1932, 22-6; Sept. 11, 1932, 11-6.

[77] There was even a premature report that the Dōsei-kai would dissolve. See *Tōkyō Asahi*, Sept. 18, 1932, 18-6.

[78] Figures for 1932 from the *Kizoku-in Yōran*, Vol. III, table facing p. 54; those for 1937 from the *Tōkyō Asahi*, Dec. 24, 1937, p. 378.

On July 23, 1937, some twenty independent members of the House of Peers, including Ohara Naoshi (minister of justice in the Hirota cabinet), Yoshida Shigeru (former chief secretary of the cabinet), Gotō Fumio (minister of home affairs in the Okada cabinet), and Hirota Kōki (former prime minister and minister of foreign affairs) organized, and notified the secretariat of the House of Peers accordingly. The group, however, was stated to be non-political, sought only to secure a voice for the independents in the inter-group negotiating committee, and has not been considered in recent compilations of group strength.[79]

X. CONCLUSION

The House of Peers has disappointed the hopes of non-partisanship which its founders entertained by splitting into six distinct political groups: one for princes and marquises—the Kayō-kai; one for barons—the Kōsei-kai; one for appointees and high taxpayers with Seiyū-kai sympathies—the Kōyū Club; one for similar Minsei-tō associates—the Dōsei-kai; one primarily for appointees without party affiliations—the Dōwa-kai; and one for counts, viscounts, and all others primarily interested in political control of the upper chamber—the Kenkyū-kai. Behind the Kenkyū-kai and Kōsei-kai, respectively, the two electioneering clubs, the Shōyū-kai and the Kyōdō-kai, stiffen political discipline among the elected titled members by devious methods. The activities of the Kenkyū-kai have been particularly criticized. They incited agitation for reform of the House of Peers during the era of party government prior to 1932, and seem equally irreconcilable with the demands frequently aired since the assassinations of February 26, 1936, for reorganization of the legislature into an expert, advisory, non-partisan organ. The Kenkyū-kai, in addition to being a major argument for reform of the upper chamber, is also the chief obstacle to any change. Since the *Kizokuin-rei* cannot be modified without the consent of the House of Peers, the Kenkyū-kai must be cajoled into political suicide before any effective reform can take place. Consequently, an understanding of the Kenkyū-kai and its fellow political groups is an indispensable foundation for any study of the long and interesting movement for the reform of the Japanese House of Peers.

[79] *Tōkyō Asahi*, July 24, 1937, p. 401.

Progressive Politics: Wisconsin an Example.[1] An examination of the relationship of the Democratic percentages in the various states to the Democratic percentage for the nation as a whole during the past forty years shows that several general patterns are discernible. In the north central and northwestern parts of the United States, one of these patterns may be clearly defined. When the country swings in one direction, the states in this region swing with it, but more strongly than the country as a whole. During the twenties, these states were more decidedly Republican than the nation, but during the thirties they became more strongly Democratic. This tendency to shift from one extreme to another is related to the progressive background of these states of which Wisconsin is typical.[2] "Wisconsin," "La Follette," "progressive"—for decades these three terms have been almost indissolubly linked in the minds of politically aware observers of the American scene.

While Wisconsin has followed the Republican standard in presidential elections almost without exception from 1870 to 1932, it has shown progressive leanings. In 1912, Robert La Follette, Sr's. sulking greatly cut down the Progressive vote, but it was still large enough to split the normal Republican strength and throw the electoral vote to Wilson, and in 1924 the state went overwhelmingly for its own favorite son.

In 1932, Roosevelt carried the state of Wisconsin in a sweeping fashion, along with other states in this progressive bloc. Hanging to his coat-tails were not only a Democratic senator and governor, but a Democratic majority in the lower house of the state legislature. Considering the weakness of the Democratic party prior to the thirties, this was truly a political revolution.[3]

In 1934, the La Follettes abandoned their former strategy of capturing the Republican primary nomination and launched a Progressive party of

[1] The authors are indebted to Harold Elstien and Norman Pearson for preliminary work on this project. Some very interesting questions in connection with methods of analysis are raised by comparing the treatment in this article with that of W. F. Ogburn and L. C. Coombs, in their "The Economic Factor in the Roosevelt Elections," in this REVIEW, Aug., 1940, pp. 719–727. See also H. F. Gosnell and W. Colman, "The Politics of Industrial America: Pennsylvania an Example," *Public Opinion Quarterly*, Sept., 1940.

[2] The following states very closely resemble Wisconsin: Washington, Oregon, North Dakota, Minnesota, California, Iowa, South Dakota, Michigan, and Wyoming. See L. H. Bean, *Ballot Behavior* (Washington, D.C., 1940).

[3] The Wisconsin state legislature, which previously had been overwhelmingly Republican (both stalwart and progressive varieties), began a shift toward Democracy in 1930 which by 1934 assumed landslide proportions. The Republican party began to recoup its fortunes in 1936, and in 1938 regained its 1930 strength.

their own. Under its colors they won in 1934 and 1936. But, by 1938, the political pendulum in the state began to swing again in a conservative direction and the Republican party staged a spectacular comeback.

Not only in the United States, but in other countries under the democratic form of government, there is a tendency for the opinions of voters to oscillate between candidates of progressive and non-progressive propensities.[4] One theory is that these oscillations are related to economic and social changes.

In order to examine the theory that political changes in Wisconsin are in part the result of economic changes, it is necessary to review briefly the economic characteristics of the state.

Although the state as a whole is now more urban than rural, and industry, service, and trade occupations are becoming increasingly important, these trends are confined to a relatively small part of the area. In half of the seventy-one counties, more than fifty per cent of the population live on farms (mostly dairy), and in a little less than four-fifths of the total number, more than half of the population live either on farms or in towns of less than 2,500 inhabitants. In analyzing voting behavior in Wisconsin by counties, then, agriculture's attitude in politics must have our attention.

Between 1928 and 1932, the index number of Wisconsin farm prices dropped from 156 to 76, the lowest farm prices experienced by Wisconsin farmers in the last quarter-century.[5] While taxes and the prices that the farmer paid for his clothes, feeds, and all other commodities also dropped during the period, the fall was not at all commensurate with the decline of farm prices. The cumulative effects of these conditions were increasing mortgage foreclosures, increased mortgaging of land, declining farm land values, and gradually increasing tenancy.[6] There was, therefore, reason enough to expect the farmer to show his resentment at his condition in a protest vote against the party which he had long supported, but under whose administration he had suffered such economic disaster.

Yet an examination of the returns for the 1932 election shows that as between the various counties of the state no tendency was visible for the farmers in the areas of lowest income to give their vote to Roosevelt

[4] F. Y. Edgeworth made a study of popular votes in three British parliamentary elections entitled "Miscellaneous Applications of the Calculus of Probabilities," *Journal of the Royal Statistical Society*, Vol. 61, pp. 534–544 (Sept., 1898); S. A. Rice, "Time Series: Party Turnover in New Jersey, 1871–1924," *Quantitative Methods in Politics* (New York, 1928), Chap. 21.

[5] Average of prices, January, 1910, to December, 1914 = 100. See Wisconsin Department of Agriculture and Markets, *Wisconsin Crop and Livestock Reporter*, Vol. 18, p. 44 (July, 1939), for farm price index used in this article.

[6] Wisconsin Department of Agriculture, *Wisconsin Crop and Livestock Reporting Service*, Bulletin No. 188, pp. 1–3, 31.

while those in the areas of highest farm income voted for Hoover.[7] All farmers were apparently affected alike, and the Roosevelt revolution was a general one. However, there was a tendency for the greater shifts to Roosevelt to come in those areas with greater decreases in farm income.[8] A breakdown of the state into its socio-economic divisions will shed further light upon this situation.[9] These divisions show a great amount of homogeneity within themselves with reference to agricultural, social, and economic factors.

The poorest section of the state is the northern part, known as the "cutover" area. Here, after the timber supply was exhausted, thousands of people, formerly employed in the lumbering industry, were left stranded to eke out a meagre living from the poor stump-filled soils of the region. In 1929, the last year of "Republican prosperity," when the gross farm income per farm in the state averaged $2,250, the Northeast area averaged only $1,200, and the Northwest only $1,600.[10] The cutover has the lowest value per farm of all products sold and used by the operator, the lowest per capita wealth in terms of property value, and the lowest percentage of people having such luxuries as radios, electric lights, bath tubs, and other gadgets regarded as so essential to the American standard of living.[11] Certainly this area should be expected to cast a protest vote against the party which had been very slow in getting its relief program under way. However, in 1932, despite Roosevelt's campaign promises, the cutover did not give him a greater percentage of its vote than did the average county of the state; nor did it shift more strongly to Roosevelt than did the rest of the state.

The other poorer part of the state, comparable to the cutover in its poverty, is the Central Sands area[12]—a region of sandy soils, marshes, and wasteland. This region gave Roosevelt a comparatively high vote in 1932

[7] The correlation coefficient between the percentage of the total vote for Roosevelt in 1932 by counties and the gross farm income per farm in 1933 by counties was −.07.

[8] The correlation coefficient between the decrease in gross farm income, 1931–33, and the percentage for Roosevelt in 1932 less the percentage for Smith in 1928 equals .35.

[9] The following sectional division is taken from the *First Annual Report of the Wisconsin Regional Planning Commission*, Map 7, p. 207, with modifications based upon the *Wisconsin Agriculture Bulletins*.

[10] The Northeast area consists of the counties of Forest, Florence, Marinette, Langlade, and Oconto; the Northwest section contains Douglas, Bayfield, Burnett, Washburn, Sawyer, and Rusk.

[11] T. Kirkpatrick and A. M. Boyton, *Wisconsin's Human and Physical Resources* (Madison, 1936), pp. 1–20, 130–140.

[12] We have taken Jackson, Juneau, and Adams counties as the poor Central Sands area. The remainder of this area (rich Central Sands) was comparatively well off.

(69 per cent as compared with the entire state's 67.0 per cent). It had gone strongly for the La Follettes, so it clearly illustrated the progressive swing of the state.

As opposed to the poorest areas are the Prairie Section and the Southwest.[13] In the former, dairying and tobacco-growing are the chief agricultural pursuits, the average farm income in 1929 was $3,000, and the standard of living is high. In the latter area, cheese and corn are the principal products. Both of these sections gave a relatively low vote to Roosevelt in 1932.

In contrast to the preceding areas are the industrial sections of the state, the heavily industrialized southeast and the less concentrated industrial areas of Lake Winnebago and the Michigan Lake Shore.[14] Milwaukee, with its large industrial working-class population which has for years shown Socialist leanings, went more strongly for Roosevelt than the state as a whole. The Lake Shore-Winnebago area has both a large wealthy farming and a large industrial population. The region is strongly Catholic, and it has been well established that the Catholics have Democratic leanings.[15] The Roosevelt vote in the area was 69.6 per cent, 2.6 per cent higher than the state percentage.

From the analysis thus far, it is clear that the 1932 election was, in general, a mass movement on the part of all sectors of the population away from the man who was associated in the minds of the voters with the depression.

Between 1933 and 1936, the economic trends of the 1929–32 period were reversed for Wisconsin. The farm price index rose from a low of 67 to 118—almost equal to the 1930 figure, a rise of 76 per cent. The ratio of prices received to prices paid rose 47 per cent over the 1932 figure; so that, as far as buying power was concerned, the Wisconsin farmer was almost as well off in 1936 as he had been in the twenties and earlier. It is evident that the Roosevelt régime coincided with a sharp recovery period for the farmers in Wisconsin. While the New Deal propagandists tried to take advantage of this situation, Roosevelt lost slightly in many agricultural areas and maintained his state ratio only because of his increased popularity in highly industrialized areas. If economic conditions had not been

[13] The Prairie Section is made up of Green, Rock, Walworth, Dane, Jefferson, Columbia, Dodge, and Green Lake counties. The Southwest consists of La Fayette, Grant, Iowa, Crawford, Richland, Vernon, and Sauk counties.

[14] The Southeast counties are Milwaukee, Racine, Kenosha, and Waukesha. The Lake Winnebago and Michigan Lake Shore counties are: Door, Kewaunee, Brown, Outagamie, Waupaca, Winnebago, Calumet, Manitowoc, Fond du Lac, Sheboygan, Washington, and Ozaukee.

[15] H. F. Gosnell, *Machine Politics: Chicago Model* (Chicago, 1937), pp. 107, 110, and *passim*.

favorable, his losses in the farm areas would undoubtedly have been much greater.

In trying to understand the 1936 vote in Wisconsin, it must be remembered that much of Wisconsin agricultural economy is a dairy one, and that the dairy industry refused to join the A. A. A. program of the New Deal. Hence A. A. A. checks were small potatoes in Wisconsin. Even those farmers in the state who were paid for not raising wheat, tobacco, and corn did not show any great loyalty to the idea of farm scarcity.

The tariff policies of Secretary Cordell Hull appeared to concern much more directly the welfare of Wisconsin farmers. In January, 1936, there went into effect the reciprocal trade treaty with Canada, which, among other things, lowered the duty on Canadian cheddar ("American") cheese and dairy cattle.[16] These concessions were seized upon by the Republicans as a good issue with which to stir up the Wisconsin farmers' resentment against the New Deal. The issue was stressed in turn by Hamilton, by George Peek, and by Landon,[17] the Republican candidate. In a speech in Minneapolis, the latter made a special bid for the dairy farmers' vote. He cited lower cheese prices and greatly increased imports of Canadian cheese as evidence of what the New Deal policies had done to the detriment of the dairy farmer. Since the dairy industry, of which cheese-making is an important part, is the most important industry in Wisconsin in point of value of product,[18] and since "American" cheese is 75 per cent of Wisconsin cheese production, these charges, if true, might have had serious repercussions on Wisconsin's vote in the 1936 election. The charges were thought serious enough in their possible consequences to bring sharp replies from Hull, Wallace, and the President himself.[19] Newspapers differed sharply in their estimates of the strength of the Republican propaganda.[20] The defenders of the program pointed out that the decline in cheese prices was a regular seasonal one, and that prices of cheese for the year as a whole showed an advance over the preceding years. Cheese production in 1936 was surpassed only by that of 1925, and milk production was the highest on record. With prices of dairy products rising and the cost of living lagging behind, the farmer could certainly not complain about the tariff issue on rational grounds.

[16] *New York Times*, Nov. 18, 1935, p. 1: 2.

[17] *Ibid.*, Aug. 21, 1936, p. 1: 1; Sept. 25, 1936, p. 1: 1.

[18] Wisconsin Planning Board, *op. cit.*, pp. 306–307.

[19] Hull: *New York Times*, Oct. 8, 1936, 1: 1; Roosevelt: *ibid.*, Oct. 13, 1936, 23: 6.

[20] Cf. Turner Catledge, *ibid.*, Oct. 15, 1936, 16:1 ". . . except for the isolated case of the beef cattle raisers, the effect of the reciprocal trade agreements, including the one with Canada, doesn't amount to 'two whoops across the holler' in relation to the election of Nov. 3." Arthur Kroch, *ibid.*, Oct. 22, 1936, 13: 2. "Nevertheless, the Republicans will make rural gains. They attribute this to Gov. Landon's tour, in which he stressed the treaty issue. . . . "

It is striking, therefore, that the Southwest, the Lake Shore, and the North Central areas, which are the leading producers of "American" and other cheeses, all showed decreases of about five per cent from the vote which they had given Roosevelt in 1932, although the mean county decrease was only 2.5 per cent. Of the leading cheese-producing counties, the five which are over 75 per cent rural (farm and non-farm) averaged 8.4 per cent decrease from 1932. The record of the voting shift, then, would favor the theory that the reciprocal trade treaty propaganda exerted some influence.

Analysis of the 1936 vote on the basis of the agricultural-economic sectional division of the state tends to show that there is a definite relationship between economic status and the popularity of Roosevelt except in the middle income areas. Roosevelt was no longer an unknown quantity. The various measures that he had undertaken under the New Deal had alienated certain economic sectors of the population and attracted others. A comparison of the rank order of the different agricultural sections in per cent for the New Deal with the rank order in farm income brings this out clearly.

If we omit the Prairie section, which can be only doubtfully classified as rural, there is a close correspondence between economic conditions and the vote for president in the rural areas. Thus the northern cutover areas gave 70, 70, and 66 per cent for Roosevelt in the Northwest, North, and Northeast sections of the state, respectively. On the other hand, the wealthier rich Central Sands, Western Wheat, and Southwest areas, listed in order of increasing average farm income per farm, gave 61, 57, and 55 per cent for the New Dealer.

The period from the latter part of 1937 until the election of November, 1938, marked a sharp recession in the trend toward improvement in economic conditions manifested in the preceding three years. The index of the Wisconsin farmer's purchasing power fell from 93 to 82 (a drop of 12 per cent in a single year), the index of employment[21] fell 17 per cent, while that for pay rolls suffered a fall of 22 per cent. The contraction seems to have been one affecting especially the industrial population.[22]

This industrial depression seems to be partially reflected in the behavior of people of Wisconsin in 1938. So far as we have been able to learn, the principal plank of the platform of Heil, the Republican gubernatorial candidate, was economy, and this offered a potential threat to the unem-

[21] Industrial Commission of Wisconsin, *Wisconsin Labor Market*, Vol. 18, No. 12 (December, 1938), 2.

[22] *Wisconsin Public Welfare Review*, Sept., 1938, p. 6; also *ibid.*, June, 1938, p. 7. The greatest increases in relief cases (except for the northern cutover) during this period were recorded in the large urban industrial areas, and some of the wealthier rural counties even showed a decrease in per cent on relief for this period.

ployed sectors of the population.[23] A definite relationship was found to exist between the Republican vote and various measures of economic status. In general, the lower the economic status and the more dependent the voters in a given county upon government aid, the lower was the vote for Heil.

The agricultural-economic sectional analysis corroborates the findings by counties. A comparison of the per cent unemployed in 1937 (totally unemployed and emergency workers) of total gainfully employed (in 1930) by sections reveals that except for the deviation of two sections—the Western Wheat area and the Lake Shore-Winnebago—a one-to-one correlation exists between the rank order of the sections as to unemployment and their rank order in per cent vote for Heil. A similar state of affairs exists in the eight predominantly agricultural sections of the state with reference to average gross farm income per farm rankings. Except for a slight shift in the rankings of the North Central and Western Wheat areas, the richer the farms of a given section, the higher was the vote for Heil.

In general, it would appear that economic motivations were important in accounting for the high shift to Democratic candidates in 1932, but that variations in the vote were not related to variations in economic status. By 1936 this picture had changed to a great extent and there were definite evidences of an "economic" vote. This economic consciousness continues to grow with the recurrence of a sharp economic recession or depression, so that in the 1938 gubernatorial election it seems to be one of the most important factors in accounting for the election of Heil and the defeat of Philip La Follette.

Closely related to these purely economic considerations is the degree of urbanization.[24] An examination of the detailed returns reveals a tendency for the farming areas to be more strongly Republican and conservative than the more urban counties. The tendency does not appear to be very strong in 1932, but after four years of the New Deal the anti-Roosevelt tendency of the rural areas became more pronounced.[25]

[23] At any rate, the correlation between the per cent of population unemployed in twenty-one non-agricultural counties of the state and the per cent voting for Heil in those counties is −.82—a high negative relationship. Other economic indices bear out this result. Thus the coefficient between the per cent on public assistance in the state's counties in September, 1938, and the per cent for Heil is −.68. The correlation between the per cent for Heil and gross farm income in 1936 is .56—low compared to the other two measures, but higher than any of the correlations involving economic indices arrived at in the presidential elections.

[24] The data for per cent rural-farm and per cent native white are from the *Fifteenth Census of the United States*, 1930.

[25] One way of getting at this problem is to correlate the per cent for a given candidate in an election with the per cent rural farm, by counties. In the two presidential elections of the decade, the coefficients of correlation between the Roosevelt vote and the per cent rural-farm were −.42 in 1932 and −.53 in 1936.

The relation of the degree of urbanization to the Wisconsin progressivism as shown by correlations is not so clear.[25] For the purpose of a more refined approach to the problem, the population of the state was divided into five sections—the city of Milwaukee, cities over 25,000 except Milwaukee, cities of 10,000 to 25,000, cities of 2,500 to 10,000, and areas under 2,500 population. The votes of the populations in each of these sectors were then tabulated and converted into percentages. In 1932, the rural population was exceeded only by the city of Milwaukee in its anti-Hooverism, and it was the small urban areas that gave Roosevelt his lowest vote. In 1936, this analysis indicates the trend of the ruralite away from the New Deal. All three of the larger urban groupings show gains of five or six per cent in the vote for Roosevelt; the small towns show no changes; and the rural areas show a loss of four per cent. Although the farmer's condition had been bettered in 1936, he tended to go back to his political habits to some extent, since he saw most of the positive activity of the national administration in Wisconsin devoted to the urban dweller.

The reaction of the city dweller to the New Deal stands out in sharp contrast to that of his rural fellow-citizen. Of the twenty-seven largest cities, only two failed to show a gain for Roosevelt, and six showed gains of over 10 per cent. The largest urban area of the state, Milwaukee, with 20 per cent of the state's population, was also the most strongly pro-New Deal (83 per cent) of any of these five sectors. In fact, it was the most pro-New Deal large city in the country outside of the South. This metropolitan center is especially interesting because of its Socialist strength. Whereas in 1932 almost 13 per cent of the total vote had gone to the Socialist presidential candidate, in 1936 only two per cent still remained Socialist. In the reaction, Roosevelt gained 10 per cent, the Republicans lost over three per cent, and a new party (the Union Party sponsored by Coughlin) received five per cent of the total vote. What seems to have happened is that the Socialists felt that Roosevelt's policies were sufficiently similar to their own short-run aims so that they could support him.

The rural-urban analysis of the Philip La Follette elections indicates even more strongly a divergence between urban and rural behavior, or, more precisely, between the rural and the small urban areas. In the 1932 Republican primary election and the general gubernatorial elections of 1934 and 1936, La Follette received 54, 47, and 50 per cent of the total

[25] The per cent rural-farm population was related to various political variables as follows: with the percentage for La Follette, Sr., in the 1924 presidential race in a small positive fashion ($r = +.38$); with the vote for Blaine, progressive Republican senatorial candidate in 1926, in a similar positive fashion ($r = +.40$); with Philip La Follette's vote in 1930, in a negative fashion ($r = -.31$); in the 1932 primary, in a positive manner ($r = +.34$); in 1934 and 1936, in a slightly positive fashion; and in the 1938 election, not at all ($r = .05$).

vote, respectively, among rural voters; on the other hand, the cities of between 2,500 and 25,000 population gave La Follette 33, 33, and about 40 per cent of the total vote in these same elections—a difference of 10 per cent or more in the votes of the two sectors of the population in each of the three elections.

In general, the people in the smaller cities and towns of Wisconsin are the most conservative group in the state. The rural population is the most progressive, although not the most pro-New Deal in the decade of the thirties, and the citizens of Milwaukee and the other large cities of over 25,000 are strongly Democratic and New Deal during the period in both national and state politics, but not nearly as progressive as the ruralite until the 1936 election. Although data are unfortunately not available for 1938, the figures for Milwaukee county would tend to support the thesis that Milwaukee had receded from its brief period of progressivism.

Since over half of Wisconsin's population is foreign born or of foreign parentage (51.1 per cent, to be exact), the relation of nativity of the population to voting is significant.[27] The figures for 1936 show a definite tendency for areas of high foreign population to vote strongly for Roosevelt, although this was not clear in 1932. It is likely that the voters of foreign stock flocked to Roosevelt because of economic considerations rather than for reasons connected with their foreign origin.[28] These voters in Wisconsin are concentrated for the most part in the northern cutover area of the state, with another concentration in the southeast industrial area. These are the areas in which the people suffered the greatest economic deprivation and in which the New Deal had distributed its greatest largess in the way of relief grants.[29]

The 1938 gubernatorial election brings out again, and more strongly, the tendency for the group of foreign parentage to vote against conservative Republican candidates.[30] However, the importance of foreign origin is not clear, since Heil received his lowest votes in the most economically depressed sectors of the state—for the most part also highly foreign in origin.

[27] The coefficient of correlation between the per cent native white of native parentage and the percentage for Roosevelt were −.03 in 1932 and −.45 in 1936.

[28] The coefficient of correlation between gross farm income in 1936 and the per cent native white of native parentage was .51.

[29] In Iowa, H. F. Gosnell and N. Pearson found a similar rise in the coefficients of correlation between the Roosevelt vote and the per cent native white of native parentage ($r = -.39$ for 1932 and $r = -.62$ for 1936). Here also the foreign vote was probably influenced by economic considerations. The most foreign areas of the state were those which had suffered the least from the drought between 1932 and 1936, while the predominantly native white areas had suffered the most and reacted accordingly.

[30] The correlation between the per cent for Heil, the Republican candidate, and this variable was +.52.

On the other hand, there does seem to be a definite relationship between foreign parentage and progressivism, irrespective of the depression of the thirties. The average per cent native white of native parentage for the fifteen traditionally strongly progressive counties of the state is 46.7 per cent, while the corresponding percentages for the Republican and Democratic parties are, respectively, 57 and 56.2 per cent. Moreover, there is a difference in the nationality make-ups of these groups of counties. The Democratic group is overwhelmingly German, with a few Czechoslovakian and Polish areas. The stalwart Republican group is much more Scandinavian, yet is still predominantly German. Most of the progressive counties, on the other hand, are predominantly Scandinavian, although there is a large German group also.[31]

The economic and social *milieu* is seen to have played some part in the Wisconsin elections of the thirties, especially in the latter part of the decade; but in our American election system, with its highly organized parties, the purely political or organizational influences should also be considered. Of these, party discipline and party tradition may be defined in operational terms.

Party discipline would refer ideally to the success which a given party might have in getting a given electorate to vote in equal numbers for all of its candidates, state and national. If there is a one-to-one correlation between the votes for governor and for president, then we may say party discipline is perfect.[32]

The figures reveal a consistently high party discipline in the Wisconsin "regular" Republican party—a discipline which existed even during the period before 1934 when the La Follettes were in control of the party.[33]

[31] The tie between progressivism and the Scandinavians goes far back in the state's history. Robert M. La Follette, Sr., got his most substantial support from the Wisconsin Norwegians during the infancy of the progressive movement, and regardless of the reasons why this first occurred, the Scandinavian group seems to have remained predominantly progressive ever since. A. O. Barton, *La Follette's Winning of Wisconsin* (Madison, 1922), pp. 57–58. Various reasons for the adherence of Norwegians to La Follette are suggested here.

[32] That is, for every vote that the state candidates of the party received, the national candidate likewise received a vote. There is no warrant for stating that the same people voted for the national candidates of the party as for the state candidates, but we make the assumption that when there is a consistently high association of the two factors, there is strong indication of high party discipline or organization.

[33] Regular (Stalwart) Republicans with Regular Republicans ('24–'38)

	r	*Regression Equation*	*S*
Hoover '28 and Kohler '28	.83	$Y=7.9+.83X$	5.8
Hoover '32 and Kohler (gov.) '32	.86		
Chapple (sen. '34) and Green (gov. '34)	.91	$Y=7.2+.86X$	3.09
Landon '36 and Wiley (gov. '36)	.91		
Heil (gov. '38) and Wiley (sen. '38)	.86	$Y=9.8+.91X$	4.5

Since 1934, when the La Follette faction abandoned the party, the Republicans have exhibited a higher discipline than in previous years.

The strong differences existing between the two elements formerly making up the Wisconsin Republican party is further shown by an examination of the relation of the votes of La Follette Republicans to those of regular Republicans running under the aegis of the same party name.[34] Here there is a consistently inverse or low positive relationship appearing between candidates ostensibly members of the same party—additional evidence that the tri-partite division at present existing in Wisconsin was a reality even before the progressive group elected to run under a party designation of its own.

Before 1934, the Progressives do not exhibit a very high discipline among themselves, although the party organizational tendency is noticeable.[35] Since 1934, a quite high discipline is shown. This is especially true of the relationship between the brother candidates in 1934.

A review of the data concerning Democratic party discipline shows that despite the fact that for years the Democrats were unable to elect anyone, they managed to maintain a rather high discipline. So that, when the Democrats' chance came in 1932, there was already existent the nucleus of a strong state Democratic organization which could be put to good use.[36]

The previous analysis furnished a general overview of party discipline over the years, but it did not bring out clearly the importance of discipline

[34] Progressive Republicans with Regular Republicans ('24–'34)

	r	*Regression Equation*	*S*
Blaine (Prog. Rep. gov. '24) and Coolidge ('24)	−.35	$Y=5.3-.28X$	8.05
R. La Follette, Jr. (sen. '28) and Hoover ('28)	−.41	$Y=9.8-.20X$	4.65
P. La Follette (gov. Rep. '30) and Hoover ('28)	.39		

[35]

	r	*Regression Equation*	*S*
Blaine (Rep. gov. '24) and La Follette, Sr. (Prog. pres. '24)	.61	$Y=15.5+.82X$	4.78
R. La Follette, Jr. (Rep. sen. '25) and La Follette, Sr. (Prog. pres. '24)	.79		
R. La Follette, Jr. (sen. '28) and Blaine (sen. Rep. '26)	.56		
R. La Follette, Jr. (Prog. sen. '34) and P. La Follette (Prog. gov. '34)	.96	$Y=11.5+.93X$	2.4
Ekern (Prog. sen. '38) and P. La Follette (Prog. gov. '38)	.86	$Y=-3.3+.82X$	4.8

[36]

	r	*Regression Equation*	*S*
Roosevelt (pres. '32) and Duffy (sen. '32)	.91	$Y=13.1+.89X$	3.4
Duffy (sen. '32) and Schmedeman (gov. '32)	.89	$Y=5.6+.96X$	3.83
Callahan (sen. '34) and Schmedeman (gov. '32)	.93	$Y=-4.2+.76X$	2.68
Roosevelt (pres. '36) and Lueck (gov. '36)	low by inspection of scatter		
Duffy (sen. '38) and Bolens (gov. '38)	.86	$Y=7.3+2.02X$	4.59

or lack of it at the specific elections in which we are interested. In the 1932 election, Democratic party discipline was higher than that achieved by any of the other party organizations, and was in fact the highest that any of the parties had reached in a decade. It is probable that this strong organization was one of the principal factors in bringing about the election of a Democratic senator, a Democratic governor, and Democratic presidential electors. The fact that the vote for the Democratic senatorial candidate was lower than that for Roosevelt, and that the vote for the Democratic governor was less than for senator, would further suggest that it was the powerful national organization which pulled the state organization to victory.

In 1936, the vote for Wiley, Republican gubernatorial candidate, was very closely related to that for Landon, G. O. P. candidate for president. It is strongly probable that the people who voted Progressive or Democratic locally voted for the New Deal leader nationally.[37]

In the 1938 election, the Republican candidates for both governor and senator, Heil and Wiley respectively, were victorious. The winning party showed the highest discipline[38] and the Democrats the least. What had happened so to lower the discipline of the Democratic organization within these two years and to encompass the defeat of Philip La Follette? A glance at the 1938 primary situation provides a partial explanation.

R. K. Henry, a conservative Democrat, ran in both the Republican and the Democratic gubernatorial primaries with the avowed purpose of defeating La Follette. When he received the nomination of the Democratic party only, he withdrew from the gubernatorial race and threw his strength to Heil, the Republican nominee. The Democratic state committee then had hurriedly to put a makeshift candidate—seventy-four-year-old Bolens—into the breach as a substitute, and the latter gathered the votes of only the most rock-ribbed of Democrats.

It would seem reasonable, a priori, to suppose that those people who had voted for Henry in the Democratic primary were most probably of the strongly anti-La Follette stamp and would not therefore switch to La Follette, but to Heil.

[37] Another fact tending to lend credence to this view is that La Follette again, as in 1932, endorsed Roosevelt and probably carried many Progressive followers with him into the Roosevelt camp. Since the percentage of the votes of the Democratic and Progressive gubernatorial candidates combined is the complement of the percentage of the votes received by the Republican candidate, this would mean that the Progressive plus the Democratic vote would closely resemble the Roosevelt vote.

[38] $r = .86$ ($a = 9.8$, $b = .91$, $S = 4.54$, $\sigma = 8.94$). The discipline between the two Progressive candidates, Philip La Follette and Ekern, was only slightly lower, while the Democratic party displayed a very weak organization. The Democratic candidate for governor, Bolens, received only nine per cent of the total vote, while his running mate, Duffy, got 25 per cent of the senatorial vote.

Several quantitative measures tend to bear out this hypothesis.[39] A regional analysis of Henry's vote indicates that he tended to draw his strength from areas containing native white, wealthy farm elements, and few people on relief in the urban areas.[40] These are the same sections of the population from which Heil derived his vote[41] and the opposite of the elements which formed the backbone of Phil La Follette's constituents. This would indicate that economic and social considerations were able to break through the organizational lines established in the four preceding years in the Democratic party and badly disrupt its party discipline at this election. It is probable that Henry's defection from Democratic ranks was an important element in making possible a Republican victory in 1938.

The other political measure which we have chosen is that of party tradition. The latter measures the success of a party in holding on to its constituency over a period of time. If a party succeeds in getting the same areas to give the same per cent of its votes to its candidates over a series of elections, we say it has high party tradition. An analysis of these data by scatter diagrams shows that party tradition is not strong in any of the parties, although the Democratic party has maintained a fairly high tradition in the last four years.[42]

Although the above technique does not show any high partisan voting tradition, a county-by-county analysis reveals certain areas with traditional partisan fixations. Eight elections of the last decade were analyzed as to the counties giving the highest percentage of their votes for each of the three parties.

The Democratic area is concentrated in the eastern tier of counties along Lake Michigan and Lake Winnebago, including most of the populous counties of Wisconsin.[43] As compared to the other two traditionally par-

[39] The coefficient of correlation between Henry's total vote in the primary (both Republican and Democratic) as a percentage of the total primary vote and the percentage vote for Heil in the general election was +.70.

[40] The relationship between the per cent for Henry (Democratic and Republican) of total primary vote and the per cent native white of native parentage was positive ($r = .42$), between the Henry vote and the per cent of population on relief was negative ($r = -.27$), and between the Henry vote and the average gross farm increase in 1936 was positive ($r = .33$).

[41] See *supra*.

[42] Correlations of:

	Rep.	Dem.	Prog.
Gov. 1934–1936	.84	.84	.81
Gov. 1936–1938	.56	.75	.84
Sen. 1934–1938	.58	.78	.61
Dem. Pres. 1936 and Rep. Gov. 1934			−.77
Dem. Pres. 1936 and Rep. Gov. 1936			−.91
Dem. Pres. 1936 and Rep. Gov. 1938			−.46

[43] The fifteen traditionally Democratic counties in approximate order of strength of party tradition are: Ozaukee, Milwaukee, Portage, Langlade, Brown, Calumet,

tisan areas, the average county in this group contains the wealthiest farming element; but this element is far less important than in the Republican or Progressive counties. In fact, many of these counties are for the most part predominantly urban—the almost wholly urban Milwaukee county being among them. Despite the presence of a large urban working class, the per cent on relief in this sector is less than in either of the other sectors. By far the greatest proportions of Catholics and pro-repeal elements are in these traditionally Democratic counties.[44]

In sharp contrast to these latter are the strongly Progressive counties.[45] They are for the most part northern cutover and poor Central Sands counties plus the counties of the southern part of the Western Wheat area adjoining the poor Sands district. These areas—60 per cent rural-farm as compared to 40 per cent in the Democratic areas—on the average contain the poorest farmers of the state. They averaged $1,250 an income per farm in 1936, while the farmers in the Democratic sector averaged $2,000—almost twice as much. Moreover, 21 per cent of the population here was receiving some form of public assistance in 1938 and 25 per cent of the gainfully employable were unemployed. By all odds, then, these traditionally progressive counties contain the most economically deprived populations. The latter also are relatively dry in their sentiments as to prohibition; they are much more foreign in origin than either the Republican or Democratic populations; and they contain relatively few Catholics. The backbone of Wisconsin progressivism of the last decade was, then, the poor Protestant farmers badly hit by the events of the depression.

The traditional stalwart Republican counties are not strongly bunched, but are scattered over the state.[46] Their characteristics are for the most part intermediate between the extremes shown by the Democratic and Progressive counties. In economic characteristics, they are quite similar to the Democratic segments of the population, although not quite as well off. In their social characteristics, they tend to resemble the Progressive areas, being predominantly rural, although containing several large cities, low in per cent Catholic, even less for repeal than are the Progressives, but containing greater proportions of native white population than either of the other groups. The separation between the two wings of the Republican

Dodge, Manitowoc, Washington, Jefferson, Kewaunee, Fond du Lac, Green Lake, Forest, and Crawford.

[44] In the neighboring state of Iowa, also, the strongly Democratic elements of recent years were found to comprise the wealthiest section of the state, with the largest urban areas and relatively wet votes.

[45] Buffalo, Burnett, Taylor, Trempealeau, Ashland, Monroe, Iron, Bayfield, Adams, Jackson, Barron, Shawano, Polk, Washburn, Vernon.

[46] They are: Walworth, Rock, Florence, Richland, Dunn, Pierce, St. Croix, Eau Claire, Rusk, Waupaca, Waushara, Grant, Iowa, Chippewa, and Pepin.

party before 1934 would seem to lie mainly in their economic differentials, with the factors of less foreignness and more urban populations as secondary considerations.

From data available, precise generalizations are risky. However, certain tentative conclusions emerge from this study. The depression appears to have worked toward a political realignment of the socio-economic groupings of this section of the American population. It began with a wholesale political turnover in 1932 in which every part of the population took part, with the "scapegoat" factor probably the most important cause. The poor, traditionally Progressive areas showed the greatest shifts between 1928 and 1932, but the heaviest Democratic votes were recorded in relatively wealthy areas of the state where traditional political alignments plus such other non-economic factors as Catholicism and wetness were of prime import. By 1936, new lines were beginning to be delineated, albeit hazily. The New Deal gained strength among the poor, foreign in origin, progressive farmers of the northern cutover area and in the large cities with their great number of skilled and unskilled laborers and high relief loads. Progressive farmers, accustomed to voting the Republican ticket both locally and nationally prior to 1932 and 1934, followed their leaders, the La Follettes, in forsaking the Republican standard for the Democratic New Deal banner. Similarly, the large Socialist movement among the workers of the Milwaukee metropolitan area lost its strength almost completely to the major party, whose leader had incorporated into his own policies some items from the short-run program of the Socialists.

The 1938 election, although witnessing a reaction against the Progressive party, whose support had been one of the principal elements of strength of the new Deal in Wisconsin in 1936, carried on in more striking and clear-cut fashion the tendency for economic and other non-political motivations to change the traditionally habitual forms of political behavior.[47] The defection of a conservative Democratic leader was the precip-

[47] X_1 = per cent vote for Rep. Gov. Heil (general election 1938)
X_2 = per cent native white of native parentage 1930
X_3 = average gross farm income per farm 1936
X_4 = per cent of population receiving public assistance September, 1938
X_5 = per cent vote for Henry (Dem. and Rep.) as per cent of total primary vote 1938
X_6 = per cent vote for Wiley (Rep. Gov. 1936)
Then $X_1 = 37.88 - .0400\ X_2 + .0022\ X_3 - .4219\ X_4 + .3637\ X_5 + .3414\ X_6$
$R_{1 \cdot 23456} = .9249$ $S_{1 \cdot 23456} = 3.4013$
The equation indicates that considerable weight should be attached to the relief situation in the state, for this factor has the highest parameter in the equation. This again bears out the importance that economic considerations played in this election, especially in the urban area and the northern cutover, since it was in these sections that relief or lack of it was a dominant issue. Of approximately equal weight would be the two political variables—the influence of the Republican traditional vote and

itating factor leading to a wholesale desertion by Democrats of the ranks of their own party in favor of the anti-Progressive candidate of the Republicans. It is probable that in 1938 the elements which deserted the Democratic party were the more economically affluent native white people, similar to those who had been the mainstay of the Republican organization during the thirties.

In Wisconsin, then, the realignment of the population along more "realistic" lines, long called for by many students of the American party system, seems to be actually in process as a result of the economic deprivations of the thirties, although this trend is strongly conditioned by religious and ethnic factors, and especially by the lag of traditional voting habits.

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Independence of State Regulatory Agencies. Transference to administrative agencies of powers traditionally associated with legislatures and with courts has destroyed old categories of political science, and necessitates a reappraisal of the structure of American governments. The story of the growth of quasi-legislative and quasi-judicial powers has been told too well to require extensive treatment here.[1] With the development of the social service state, the legislatures, we are informed, have been ill-equipped to legislate in detailed fashion because of the quantity and the technicality of governmental activities and because of the need for flexibility and adaptability in the conduct of those activities. Two other reasons for delegation of legislative power may be advanced. The legislature may wish to devolve the responsibility of self-government on a particular industry or vocational group. Or again, it may desire to wash its hands of a particularly trying problem of public policy, and this it can do by turning the problem over to an administrative agency.[2]

Quasi-judicial powers have been vested in administrative agencies

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the important part played by Henry's defection. Other considerations would be either of lesser import or else included in one of the major factors already discussed.

[1] See especially John P. Comer, *Legislative Functions of National Administrative Authorities* (1927); John Dickinson, *Administrative Justice and the Supremacy of Law* (1927); Ernst Freund, *Administrative Powers over Persons and Property* (1928); James Hart, *The Ordinance-Making Powers of the President* (1925).

[2] E. Pendleton Herring, *Public Administration and the Public Interest* (1935), p. 139 and *passim*. The legislative body may have the superficially commendable purpose of wishing to remove a debate over policy from the political arena. Herring reports this to have been the case with establishment of the Tariff Commission. He shrewdly observes, however, that traditionally political decisions, like those on tariff duties, remain political wherever the decision-making power be vested. *Ibid.*, p. 104.

where the courts were regarded as too burdened with work, or too uninformed on the technical questions involved, or too precedent-ridden and economically conservative to adjudicate properly in particular fields. To some extent also, quasi-judicial powers have been given to administrative agencies because the legislature has found it difficult, or at least undesirable, to separate the quasi-judicial phase of a function from its quasi-legislative and administrative phases. To this picture of adjudicatory powers possessed by administrative agencies must be added the important fact that many administrative agencies, although not possessing real powers of adjudication, are required by legislative or court direction to follow a quasi-judicial type of *procedure* in arriving at their administrative and, particularly, quasi-legislative decisions.

This transference of legislative and judicial powers from the bodies to which they have historically belonged is no localized phenomenon. In Great Britain the problem has been recognized,[3] and in Germany, Russia, Italy, and France, government by executive decree has become a commonplace. In the United States, no level of government has escaped the trend. The federal government's problem, especially as it arises with the independent commissions, has received much penetrating study.[4] But the states have been wrestling with similar problems with very little benefit of political scientists' counsel.

The conclusions of studies of the federal government's handling of regulatory agencies cannot legitimately be applied to the states. The basic federal administrative structure is integrated, and the tradition of integration dates back a century and a half, whereas the states' tradition has long been one of a weak governor and a diffuse, deintegrated administrative structure. In the federal government, furthermore, independence is a status reserved largely for *commissions* possessing great *regulatory* powers. In the states, no uniform rule has been followed. Commissions and departments, regulatory agencies and service agencies, are independent or not, as their particular statutes may determine. The federal commissions have large staffs; many of the state regulatory agencies have fewer than ten staff members. There are significant differences in the legislative branches of the two levels of government. Congress is more frequently in session,

[3] See especially Cecil T. Carr, *Delegated Legislation* (1921); William A. Robson, *Justice and Administrative Law* (1928); Lord Gordon H. Hewart, *The New Despotism* (1929); Committee on Ministers' Powers, *Report* (1932).

[4] James Hart, *Tenure of Office under the Constitution* (1930); Robert E. Cushman, "The Problem of the Independent Regulatory Commissions," in U. S. President's Committee on Administrative Management, *Report with Special Studies* (1937), pp. 203–243; same, "The Constitutional Status of the Independent Regulatory Commissions," *Cornell Law Quar.*, Vol. 24, pp. 13–53, 163–197 (Dec., 1938; Feb., 1939); Wilson K. Doyle, *Independent Commissions in the Federal Government* (1939).

and for longer periods, than most state legislatures. Congress is often in close sympathy with the President and looks to him for leadership, both in policy and in administration, whereas in the states the governor and the legislature are often at loggerheads and legislative leadership must be developed within the legislature itself. Finally, federal administrative officials are quite superior in ability to members of Congress; certainly this is true if ability is interpreted in terms of expertness. But in the states the administrative officials, even in supposedly technical positions, are so poorly paid or recruited in so unsatisfactory a manner that in ability they are not greatly superior to state legislators.[5]

The problem of the state regulatory agencies is, partially at least, only a phase of the more general problem of the basic organization of the state government. There are some differences between regulatory and service agencies (which we shall examine later), but certainly treatment of both must be based upon a fundamental theory of governmental organization. The theory that has been dominant for a score of years is known as that of integration. It would have all lines of administrative responsibility converge in the governor, while he alone in the executive branch would be responsible directly to the people.[6] This means the elimination of other constitutional officers (i.e., officers elected by the people), and, as well, of commissions protected against the governor's removal power and provided with a membership whose terms are staggered. The theory of integration rests on the belief that enlargement of the governorship's responsibilities will somehow result in the election of governors with a sense of responsibility, that the people will reëlect or defeat a governor on their judgment of the net value to the state of his whole administration, and that the governmental gears will run much more smoothly if a single man, the governor, has the power to make them mesh rather than clash. This has been the theory applied, with slight adaptations, and with some concessions to political expediency, to state after state by the Brookings Institution, Griffenhagen and Associates, and the National Institute of Public Administration. Few voices have been heard in dissent.[7]

[5] This distinction is, I believe, the most debatable one here presented. It is based on personal observation, and is subject to exceptions. To California, Wisconsin, and New York, for instance, the generalization cannot apply, for their traditions of good government and effective application of civil service laws have resulted in an administrative personnel that compares favorably with that of the federal government.

[6] The state auditor might be thought an exception to this statement, but I do not regard him as a part of the executive branch. He must be outside, looking in.

[7] Among the notable dissents must be noted the following: Francis W. Coker, "Dogmas of Administrative Reform," *American Political Science Review*, Vol. 16, pp. 399–411 (Aug., 1922); W. H. Edwards, "The State Reorganization Movement," *North Dakota Law Review*, Vol. 1, pp. 13–30 (Jan., 1927), Vol. 2, pp. 17–67 (Feb., 1928), and pp. 103–139 (Apr., 1928); same, "The Public Efficiency Experts,"

Two recent studies have attempted to assay the results of reorganizations based on the integration theory, and have shown none of the enthusiastic confidence of the theory's sponsors.[8] W. H. Edwards says flatly: "No increase of efficiency and economy appears to have resulted directly from the adoption of one-man control principles," and, "The principles of unity, leadership, and responsibility as defined by the advocates of this plan seem to be dubious assumptions."[9] An English scholar, Leslie Lipson, concludes: "As long as there is the possibility of administration or lawmaking by inferior men, the structure must be built accordingly. It is here, above all, that the principles of reorganization have failed to justify themselves. The major premise of the whole movement was: Strengthen the governor; put your trust in the governor. It is not unfair to say that some have betrayed the trust. . . . The renaissance of the governor was rarely accompanied by his reformation."[10]

The contrary theory, deintegration or diffusion, has the advantage of a long tradition in the American states. It has the more substantial virtue that it insulates most agencies against the assaults of malevolent governors. In the political realm, the diffuse system of organization divides the power over spoils among many party leaders, and thereby prevents the governor from exercising preponderant authority in intra-party decisions on candidates and policies. It is often argued further that a deintegrated structure permits well-organized professional groups to reform, and keep reformed, the particular departments in which they are interested. This has been true, certainly, with respect to many state departments of education, health, conservation, and social welfare.

Apparently, the problem of administrative organization is not solved by our adoption of any single formula by which we sink or swim. It would seem the simplest sort of thinking to acknowledge that concentration of power in its extreme form means dictatorship and that diffusion of power at the other extreme means chaos. The task of the political scientist and of the statesman-politician, then, becomes no matter of bandying about categories and theories with an "all-white or all-black" implication. Rather it is the much more delicate and far less spectacular one of seeking that middle ground at which the two theories, antagonistic in their extreme formulation, can be harmonized and compromised so as to produce a moderately efficient and responsible government.

Southwestern Political and Social Science Quarterly, Vol. 10, pp. 301–312 (Dec., 1929); Charles S. Hyneman, "Administrative Reorganization: An Adventure into Science and Theology," *Journal of Politics*, Vol. 1, pp. 62–75 (Feb., 1939).

[8] See, however, A. E. Buck's *The Reorganization of State Governments in the United States* (1938) for a rarely discriminating praise of state reorganizations.

[9] *The Position of the Governor in Recent Administrative Reorganizations* (ms., Ph.D., dissertation, Ohio State University, 1937), p. 1008.

[10] *The American Governor; From Figurehead to Leader* (1939), p. 268.

The degree of integration desirable may possible vary with the type of agency. This seems to be the position of most of the writers on specialized phases of state activity. That is, each writer feels that, although a frontal attack on the general principle of integration might be unsound, the principle should not be applied to the utility commission, or to the workmen's compensation board, or to the welfare department, and so on. If we were to compile an aggregate of these specialized judgments, I have no doubt that the resulting pattern would be one of independence for most state agencies, and so of a diffuse, disintegrated state government. These writers are, if I may venture a blanket indictment, shortsighted in their failure to see the picture of the whole government in operation. The problems that they are attempting to solve by insulating their special agencies are fundamental ones running through the whole of a state government. The answer to spoils politics is not insulation of the agency we are interested in, but a civil service system for the whole government. The answer to graft in purchasing of supplies and construction of public works is again, not insulation for particular agencies, but a satisfactory government-wide procedure for the purchasing of supplies and the letter of construction contracts. The answer to pilfering of public funds and primitive financial practices is a government-wide prescription of budget and audit procedures. No device now known for making an agency independent can be effective, in my opinion, in insuring the agency against the inclemencies of a state's political climate. The conclusion from this standpoint is that for many purposes we must lump all state agencies together. Political immorality in state administration is contagious, and no serum has yet been developed nor any isolation ward perfected that can save a few agencies while the others agonize.

The hazards of service agencies and of regulatory agencies are, however, somewhat different. The most rewarding hunting grounds for the mere spoilsman are the service departments (highway commissions, charitable and correctional institutions, schools, and similar agencies), for they have large numbers of employees.[11] The politician interested in graft from construction contracts and the purchase of supplies finds lean pickings in the regulatory departments, and must perforce turn to the service departments for large-scale corruption of this sort.

Though in a strategic position to ward off the spoilsman and the contract and supplies grafter, the regulatory departments are seriously vulnerable to a more sophisticated kind of corruption—the corruption of public policy. Spoils is merely a technical instrument of the politician designed

[11] The regulatory departments with large inspectional staffs are sometimes raided by spoilsmen. In North Dakota under Governor Langer, most of the state's inspectional forces were consolidated in one Regulatory Department and politically useful men appointed as inspectors.

for his own advancement. Supply and contract graft is a combination of the politicians' need for money and the contracting and manufacturing companies' willingness to turn a dishonest penny. But the corruption of public policy makes politicians merely the tools of special interests. And special interests I define in no derogatory terms, but merely as persons and businesses that are subject to regulation by state departments and commissions.

This distinction in the hazards of corruption faced by regulatory and service agencies is closely paralleled by a distinction in the type of activity that is the core of the agency's many functions. The central activity of regulatory agencies—that is, the activity on which all else depends—is the determination of policy. It colors not merely the quasi-legislative functions but also the quasi-judicial and administrative functions of a regulatory body. While service agencies do, of course, make some significant policy determinations, their *central* activity is administration, and the key problem is that of effective administrative management. The dominance of policy considerations in regulatory work means that it is futile to attempt to isolate the agency from the political *milieu* in which it must and should operate. Usually the argument is put in exactly the opposite way. It is said that agencies with "mere" administrative tasks to perform can safely be left under the governor's and legislature's wings, but that we should seek independence for agencies possessing great discretionary powers.

As a matter of fact, the freeing of a policy-determining agency from intimate contact with the politicians in the governor's mansion and in the legislative halls often throws the agency into the hands of the special interests it is supposed to regulate. Shortly we shall see the problems this raises. But the immediate application of this fact is that this happens less frequently with service agencies. When service agencies are made independent of the capital politicians, their work has a fair chance to be directed largely by experts and technicians. The difference in the two cases of independence arises, I believe, either because the service agencies have no special interests to serve, or because such special interests as do exist are unorganized, and hence, ineffective as pressure groups, or because the desires of such special interests as are organized tend to coincide with the public interest.[12]

To this point, I have attempted to (1) give a summary view of the reasons for the growth of quasi-legislative and quasi-judicial agencies; (2) point out the differences between the federal government's problem and

[12] *E.g.*, the alumni, faculty, and students of a state university may have their differences, but their end is common—the improvement of the university. At the lower educational levels, the parents, teachers, and superintendents of schools may disagree as to educational techniques and emphases, but they agree on the desirability of effective education.

the state governments' problem arising from the growth of such agencies; (3) summarize the tenets of the integration and diffusion approaches to state administrative organization; (4) underline the dominance of the integration theory, and at the same time the skepticism of those who have seen the theory applied; (5) urge that insulation of our favorite agencies is not the proper answer to problems that plague the whole government; (6) contrast regulatory agencies and service agencies with respect to (a) susceptibility to spoils, contract, and supply graft-politics, (b) respective emphases on policy determination and on administrative management, and (c) relation to special interests non-coincident with the public interest. We may now turn specifically to the regulatory agencies, dealing in turn with the mixture in the same agency of legislative, judicial, administrative, and technical[13] functions, the danger of inordinate influence on policy by pressure groups of regulated interests, the structural arrangements that affect the independence of an agency, and finally, the possible solutions for the basic problems we are considering.

Devolution of discretionary functions has customarily taken the form of vesting in the same agency legislative and judicial powers, and these are generally supplemented further by administrative powers. The reasons for this are twofold: (1) the legislature sees advantages in locating the responsibility for a single field of governmental activity, e.g., labor conditions, in a single agency, which can thereby provide a coördinated handling of the problems of that field, whether they be classified as legislative, judicial, or administrative; or (2) the legislature believes the lines between the three types of power to be so obscure that an attempt to segregate the powers would be futile.

This mixture of powers greatly complicates any attempt to determine the appropriate relation of these agencies to other parts of the state government. Such institutional principles as have been developed in this country usually start from the assumption of separate legislative, executive, and judicial branches. We thus know that the prime rôle of a legislative body is to represent public opinion in formulating policy; that the function of the executive-administrative branch is to carry out the dictates of the legislature with as much efficiency and economy and as little favoritism and graft as possible; that the function of the judiciary is to decide with absolute impartiality the cases brought before it. In the order in which I have named them—legislative, administrative, and judicial powers—we see the diminution of policy considerations and the proportionate rise of objectivity and impartiality. The mixture of the three functions leads either to the dominance of political, or at least policy, motives

[13] Often the technical function is termed the function of fact-finding. This is especially true in the literature on public utility commissions.

in all three phases of work,[14] or to the other extreme, which is just as bad—the adoption of an unaggressive impartiality and reliance on injured parties for enforcement of the law against its violators.[15]

A further factor is introduced into the struggle over attitudes by the fact that many of the administrative employees of the agency are technical experts. To what extent should the agency's decisions be influenced by the technical staff members? Courts like to talk about expert commissions, whereas in fact the commissions proper are inexpert and often politically constituted, while the expertness is confined to their staffs. But the experts often participate in the trial of cases before the commissions as advocates of one side; they are often "the prosecution." So if their advice largely determines the commission's decisions, the objective impartiality of a quasi-judicial body and the broad-gauged political effort to express the public interest, typical of a quasi-legislative body, may both be lost.

The argument for independence of regulatory agencies from gubernatorial or other political control emphasizes the quasi-judicial or the technical nature of the regulatory tasks, or both. This position would be well taken if we could forget that the same agencies are also performing quasi-legislative functions. Yet, to recognize only the quasi-legislative phase of an agency's functions and overlook the other phases would cause us to politicalize the whole work. This raises as a basic question: Can we in the same body have the political orientation which is desirable for quasi-legislative activities and the objective impartiality which is basic to quasi-judicial and technical administrative work?

Let me present one concrete example of the mixture of functions. I choose the workmen's compensation agency, principally because most persons would say offhand that its function is entirely quasi-judicial. They would point out that there are adverse parties to each case—the laborer and his employer—and that the principal rôle of the state compensation board is to decide objectively and impartially on the merits of the claim for compensation. But let us look more closely at the agency's work. First, we find that ninety per cent of compensation cases are settled by agreement of the parties, and get to the compensation board, if at all, merely for its fairly routine approval.[16] Sixty per cent of workmen's compensation cases hinge on medical testimony,[17] for appraisal of which the legally

[14] Regulated interests naturally object to dominance of this factor, as, for example, when a workmen's compensation board is overly liberal to employees.

[15] The public naturally objects to this attitude, as, for example, when a public utility commission assumes the guise of a court and shifts to injured consumers the burden of prosecuting utility companies charging exorbitant rates.

[16] Pennsylvania, Governor's Committee on Workmen's Compensation, Report, *Labor and Industry* 21, p. 70 (Nov., 1934). [17] *Ibid.*, p. 74.

trained board members must rely on medically trained staff members. Add further to this picture the fact that compensation cases are heard in the first instance by referees or by individual board members. It is obvious that, at least in the larger states, the compensation board itself acts on only the small number of cases that patient laborers or employers appeal to it. Finally, to complete the picture, we must note that the agency has important administrative tasks. It must see that the workmen know their rights and bring their claims for compensation to the board properly prepared for presentation. It must see that once an award is made the employer makes the payments required at the regular intervals provided for in the award. In some states, too, the workmen's compensation agency engages in promotional safety work, gathers and publishes statistics on industrial accidents, and may even inspect factories to enforce compliance with industrial safety laws. Clearly, such functions do not make a neat bundle labeled "quasi-judicial."

The existence of effectively organized pressure groups among the persons and businesses regulated by state agencies is also a complicating factor. The degree to which these special interests coincide with the public interest varies with the type of agency involved.[18] Professional licensing boards are virtually the creatures of the professional societies of the state, and their ability to express the public interest depends almost entirely on whether the professional society's interest in restricting competition through raising standards of entrance to the profession avoids a direct clash with the public's desire for adequate professional service at reasonable fees.

State banking departments are typically dominated by the bankers' association of the state, and the association may be controlled by the banks of the large cities or by the more numerous small-town banks. The existence of these and other conflicting interests makes it conceivable that the banking department could play off the groups against each other in the hope that the dominance of no special interest might mean the dominance of the public interest. State departments regulating insurance companies, building and loan associations, and securities are also in the fiduciary field, and their susceptibility to pressure is roughly analogous to that of banking departments.

In both the cases discussed—that of the professional licensing boards and that of the departments in the fiduciary field—there is a possibility that the "better element" among the regulated interests might support effective regulation. For contrast, consider food and drug departments, liquor regulating boards, and public utility commissions, where the selfish interest of the businesses regulated lies in undermining the effectiveness

[18] Other factors (*e.g.*, the political circumstances of each state) are, of course, influential.

of regulation,[19] and where there are no well-organized supporters of the agencies' work.[20]

In all the cases discussed, there is a danger that the public interest will not triumph. I advance as a hypothesis that the chances are that the public interest will be more effectively expressed by an agency that must answer to legislators and governors who in turn must answer to the people than by an agency whose ties to the policy-making officials of the government are more tenuous than its ties to the special interests that it regulates.[21]

The devices by which an agency becomes independent of the governor and legislature are numerous. The commission form of organization leads to independence ordinarily only if terms of office are staggered in such a manner that no governor can control a majority of the commissioners.[22] Election of department heads gives independence only if the head has his own political machine and need not depend for his votes on the governor's coat-tails. Statutory prescription of qualifications of appointees and requirement of senate concurrence in appointments contribute practically nothing to independence.[23] Restrictions on the governor's removal power are the most certain means of making an agency independent. But even such restrictions can be partially evaded if the governor follows the Coolidge practice of requiring that his appointees file with him undated letters of resignation.[24] Such restrictions may fail to produce independence

[19] However, a few utility companies support effective regulation of utilities, recognizing that the threat of public ownership of utilities gains strength in inverse ratio to the ability of utility commissions to perform their work effectively.

[20] Consideration of labor, agriculture, conservation, health, and other regulatory departments is omitted simply because their relationship with regulated interests is usually a complicated one, and the space here available does not permit an adequate treatment of the many variations.

[21] I am not naïvely assuming that special interests do not influence legislators and governors. But the fact that many other special interests are also influential, and that their effectiveness is roughly proportional to their ability to influence the public's voting, seems to me to offer some hope that no single group of special interests can be continually dominant.

[22] It should be kept in mind that some governors are elected for more than one term. Even if this does not occur, the same political faction may stay in power for many terms. Either of these events may throw awry the best planned statutory attempts to make an agency independent.

[23] The statement is not meant to include statutory requirements that the governor must select his appointee from a slate of nominees proposed by some association, *e.g.*, the state medical society. Such an arrangement may increase an agency's independence.

[24] In the discussion following the reading of this paper at a meeting of the Southern Political Science Association (Nov. 10, 1939), many Southern political scientists volunteered instances of this practice in their states. Apparently, politicians recognize the practice as one of the tricks of their trade.

if commissioners whose terms are soon to expire try to obtain reappointment by demonstrating to the governor their eagerness to coöperate with his program.

Freedom from the governor's budgetary control, the legislature's appropriation-limiting power, and the auditor's scrutiny are essential to independence, as is also freedom to appoint all members of the agency's staff without the necessity either of accommodating the governor's and legislators' desires to get jobs for their political supporters or of conforming to civil service standards and procedures. Finally, complete independence requires the impossible phenomenon of spontaneous generation of powers. Every state agency depends in some degree on the legislature and governor for its possession of legal powers. Since empowering acts become antiquated, or are threatened with power-contracting amendments, the regulatory agency cannot afford to assume a defiantly independent attitude toward the legislature and the governor.[25]

It is easier to pose the problem of the regulatory agencies than to suggest a solution for it. On the basis of what has already been said in this paper, it would appear that complete integration of a regulatory body into the administrative hierarchy would be an error. However, we must also reject the most obvious alternative, i.e., complete or near-complete independence. An intriguing proposal, whether it comes from the American Bar Association or from the President's Committee on Administrative Management, is to lay the independent regulatory body on a bed and cut off, Procrustes-fashion, its legislative functions at one end and its administrative functions at the other end, leaving in complete, even drastic, independence its judicial torso. Such a detruncation of the regulatory body requires a skilled surgeon's judgment of the exact point for amputation.

Even if the delicate task of clearly distinguishing the three kinds of functions can be satisfactorily performed, there remains another difficulty. This is that the integration of legislative, administrative, and judicial functions within a single agency has substantial virtues that will in all likelihood be lost if a segregation of functions occurs. Even quasi-judicial bodies can act more intelligently if they have an appreciation of administrative difficulties and of broad problems of public policy in a particular field. There is a danger that the establishment of agencies performing nothing but judicial work and isolated from day-to-day contact with administration may become over-judicialized, formalistic, precedent-ridden, and unrealistic to a degree fatal to the public interest. Few of the fields of quasi-judicial activity are completely free of policy considerations.

Complete segregation of the judicial from the legislative and adminis-

[25] Another factor in independence is the freedom of the agency's actions from review by the courts. But I have omitted this, since the basic problem of this discussion does not include the relations between courts and regulatory bodies.

trative functions of an agency appears, then, to be too drastic a cure. A variant of this segregation scheme is the proposal to attempt a segregation of functions *within* an agency. For instance, a commission might head the agency and perform the judicial work required.[26] An executive director might be appointed to supervise all administrative work, including the aggressive prosecution before the commission of persons and companies believed to be violating the law. Yet a third branch might be specifically charged with studying long-range policies of the agency.[27] It might even be authorized to exercise, subject to appeal to the commission, the quasi-legislative functions of the agency.[28]

Such a plan of internal segregation has significance only, unfortunately, for the larger states; for it assumes a staff capable of being distributed among the three divisions of an agency. If a commission has no staff at all, or a very small one, the commissioners themselves must, of course, engage in all activities of the agency. So we are brought back to the fact that in most states the regulatory agency must be considered as a unit that cannot be broken into segments. If confronted by this necessity of allocating the whole regulatory body to some definite status of dependence or independence, one might properly prescribe different treatments for the various fields of regulation. In a field where pressure groups are strong, and their interest clearly does not coincide with the public interest, the regulatory departments might be brought into close relationship with the governor and the legislature. In a field where the pressure groups are many and their interests diverse, the central controls might be relaxed, in the hope that the agency would succeed in playing off the pressure groups against one another or that a compromise agreed to by the special interests would be in the public interest. In the fields where the pressure groups, though well-organized and strong, have an interest basically identical with the public interest, the reins might hang quite loosely. And of course, if a field can be found where there are no special interests, a rather complete independence would be quite appropriate—though I am confident that where there is regulation there are special interests.

No simple formula emerges from this attempt to analyze the problem

[26] Appointing subordinate referees and examiners to handle cases in the first instance, to take testimony, etc.

[27] Cf. the Federal Coördinator of Transportation, who, though selected by the President, was also a member of the Interstate Commerce Commission. Significantly, his reports to Congress were accompanied by a transmittal letter of the Commission.

[28] I fear to give all quasi-legislative powers to the commission proper, because they might clash with its quasi-judicial powers, and because the experience of state industrial boards has been that they spend most of their time trying to keep the quasi-judicial docket clear, and so neglect their quasi-legislative functions.

of state regulatory agencies. There may be such a formula, but it remains undiscovered. Fundamental to our search for such a formula are, however, some of the propositions that I have tried to establish here: That the federal problem and the state problem of independence for regulatory agencies have significant differences; that the theory of integration has not proved completely successful in practice; that spoils and graft in state governments should be attacked frontally, and not solved simply for particular agencies by insulating them against contact with the rest of the government; that regulatory agencies differ significantly from service agencies in that their central task is policy-formulation as contrasted with mere administrative management, and in that they are more susceptible to the pressure of special interests, but less endangered by the garden-variety of corruption; that the mixture of legislative, administrative, judicial, and technical functions in a regulatory body must result in the dominance either of a political attitude or of an impartial, judicial attitude in all phases of the agency's work; that the extent to which the special interest of the regulated groups coincides with the public interest varies from one regulatory field to another; that there is a multitude of ways in which an agency is dependent on the governor and legislature, and that the severing of these bonds is not always as effective as might be anticipated; finally, that segregation of functions is not a flawless solution, and that it is particularly inappropriate for the small and medium-sized states.

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New Techniques in Federal Aid. The need for federal supplementation of state and local funds in carrying on certain relief and work activities will undoubtedly continue, and even expand, in coming years.[1] Although the economic and fiscal problems arising out of this situation usually receive the spotlight, the administrative aspects are no less important. To a large extent, the effectiveness of the programs of federal financial aid is determined by the administrative arrangements under which the funds are distributed and spent. To the political scientist, therefore, federal participation since 1933 in "normal" state and local public construction and in work programs designed for the needy unemployed is of particular interest, because in these instances profound modifications have been made in the traditional procedures for administering federal aid.

[1] See, for example, the findings of Joseph P. Harris on the financial prospects of state and local governments, in "The Need for Federal Support of Social Security Programs," Part VI of *Social Security in America*, published for the Committee on Economic Security by the Social Security Board (Washington: Government Printing Office, 1937).

It is interesting to reflect that the changes which have taken place in federal aid techniques since 1933 came quickly and without warning. The administrative set-up of federal aid activities appeared to have achieved a rather stable and permanent form during the second decade of the twentieth century. Certain outstanding characteristics could be noted in the federal subventions then being offered. The term "federal aid" referred to annual, recurrent lump grants made by the federal government to participating state governments. Each state legislature wishing to take advantage of federal aid for a particular function would first set up or designate a state agency with power to perform the work involved. The state agency, in turn, would periodically draft a program to be submitted to the federal government for its approval. Upon such approval being given, federal funds would be turned over to the state. The state agency would then be expected to carry out the program, meeting at least the minimum standards prescribed by the federal grant unit. Finally, the usual grant-in-aid statute contained a provision for "matching" funds; that is, to be eligible for its "quota" of federal funds, each participating state was obliged to supply at least one dollar of state or local moneys for every federal dollar received.

These ordinary or "normal" procedures, of course, are still applied to most forms of federal aid—public assistance grants under the Social Security Act, grants for federal-aid highways, for vocational education, vocational rehabilitation, forest fire prevention, agricultural research, and agricultural extension work. It may be asked, therefore, to what extent, and why, the usual federal aid techniques which have proved satisfactory in other fields were modified in the case of public works and work programs.

Briefly stated, the word "work" is the key to the puzzle. The three agencies which have used novel federal aid techniques have been the Public Works Administration, the Civil Works Administration, and the Work Projects Administration (formerly termed Works Progress Administration). While the three programs have differed from one another in important aspects, they have been alike in their common emphasis upon the giving of employment. All three have likewise had the experience of finding it needful and desirable to veer away from the traditional federal aid procedures in order to find the most appropriate means of carrying out their purposes.

P. W. A. Grant and Loan Program. The statute under which the Public Works Administration was set up in 1933[2] provided for a distinct variation from the usual federal aid system. The grant-in-aid concept, which previously had always meant the funneling of federal funds to a state agency, was extended to include federal grants (and loans) made directly to local

[2] N. I. R. A. Act of 1933, Title II (48 Stat. L. 200, ch. 90).

governments.[3] Furthermore, instead of making lump grants for public construction programs to be carried on over a certain fiscal period, the P. W. A. used a project-by-project process of submission and approval. The allotments were made for individual projects selected by the federal agency from proposals submitted directly by would-be sponsors, which were sometimes state governments, but were usually municipalities, counties, or special districts.

The records of congressional debates and hearings preceding the adoption of the National Industrial Recovery Act do not reveal that the possibility was even discussed of making public works grants to state governments for distribution by state agencies. One obvious reason for the use of direct federal-local contacts was that there were no state departments of public works with experience in making allotments to political subdivisions for local public construction. Furthermore, the 1933 unemployment emergency was too severe to allow time for such departments to be gradually built up in the states.

Even if state agencies comparable to the P. W. A. had existed, it is very doubtful whether the ordinary grant-in-aid technique would have been utilized. In view of the frequent changes in employment needs, the usual method of having a state agency plan and submit in advance a definite program of projects would be impracticable.[4] Also, the known anti-urban bias in certain state governments might have caused the industrialized urban districts (where joblessness was most prevalent) to be neglected. The added fact that a federal loan was often supplied to supplement a public works grant made it desirable for the P. W. A. to deal directly with each project sponsor to make sure that proper, collectible security was offered. Finally, there was a still more pressing reason for direct federal-local contacts and supervision of each individual project by the P. W. A. As an employment-giving agency, the P. W. A. naturally laid great stress upon its rules regarding the hiring and classification of project workers, wage rates, hours of work, and other labor and construction procedures.

[3] An intermediate step, which in a sense bridged the gap between the old grant-in-aid methods and the P. W. A. procedure, was the Emergency Relief and Construction Act of 1932, Title II (47 Stat. L. 709), under which loans were made available to states *and* their political subdivisions for "self-liquidating" construction projects.

[4] Some observers may suggest that a state public works agency could borrow the W. P. A. technique of approving a large "pool" of acceptable projects. From this "pool" the agency might select for actual operation only the particular projects most needed at the time. However, P. W. A. projects do not lend themselves so well to this scheduling as do W. P. A. undertakings. Localities often have to make elaborate preparations for P. W. A. projects—changing local debt limits, holding special elections, floating bond issues, paying considerable amounts for architectural and engineering blueprints—and they wish to be sure that every approved P. W. A. project will be carried out.

Adequate enforcement would have been much more difficult to secure if the usual state grant technique had been used.

Let us examine the enforcement problem of the P. W. A. Once federal moneys had been handed over to a project sponsor, title to the funds passed to the sponsor.[5] Each governmental unit receiving funds for a project would then select a contractor to perform the work;[6] the P. W. A. labor and construction regulations were required to be incorporated in each agreement between a project sponsor and a contractor. The P. W. A. itself was not a party to this construction contract. In theory, therefore, the P. W. A. was obliged to rely wholly upon the willingness of project sponsors to see that construction contractors observed the federal rules. In reality, the federal grant agency retained one important means of control. Instead of handing over the entire federal contribution[7] to the sponsor at the start of construction, the P. W. A. used a "progress payment" method. Certain percentages of the total grant for each project were made available to the sponsor at various stages of construction, provided that progress on the project was satisfactory and that all wage, labor, and other stipulations were being properly enforced.

An effective "progress payment" method, it is obvious, can be used only where direct contacts are maintained between the grant agency and the sponsor of each project. Only under such an arrangement is the grantor able to withhold funds from individual projects on which federal regulations are being disregarded. Had the P. W. A. used the ordinary grant technique of allotting a lump sum to each state, it would not have found it practicable or fair to shut off all federal moneys for public works unless the violations of federal rules were widespread and notorious.[8]

C. W. A. Program. The work program of the Federal Emergency Administration of Civil Works (November, 1933–March, 1934), though short-lived, was of great importance in the evolution of federal aid techniques.[9] Speaking strictly, the C. W. A. allotments for work projects were

[5] This is in accord with the legal theory behind all grants-in-aid. See, for example, State of Wyoming, *ex rel.* Wyoming Agricultural College *et al.* v. William C. Irvine, 206 U. S. 278 (1907); King's County v. Seattle School District No. 1, 263 U. S. 361 (1925).

[6] There were some instances where localities were permitted to carry on certain P. W. A. project work by force-account (day labor) instead of by the letting of contracts. See J. Kerwin Williams, *Grants-in-Aid Under the P. W. A.* (New York, 1939).

[7] Under the N. I. R. A., 30 per cent of the cost of labor and materials; under the 1935 and later acts, 45 per cent of total costs of a project.

[8] The general reluctance of all grant agencies to withhold grants from states is well discussed in V. O. Key, *The Administration of Federal Grants to States* (Chicago, 1937), Chap. 6. Thus the power of withholding funds is by no means the important sanction that it appears to be. The occasional tendency of Congress to restore to a state a grant withheld for cause by the administrative branch complicates the problem still further.

[9] For a description of this agency, see Corrington Gill, "The Civil Works Ad-

not grants-in-aid, but a novel hybrid best described as "quasi-grants." The C. W. A. distributed federal moneys, it is true, and these funds were largely spent for local projects planned, suggested, and sponsored by local governments.[10] Yet the federal allotments were not classifiable as grants because they were never actually handed over to any state or local government. Branches of the Federal Civil Works Administration, manned by federal officials,[11] were established in the states and localities. Necessary materials for the projects were bought through federal purchasing channels. Project workers were paid by federal checks. The Veterans' Administration, which possessed the largest disbursing system in the federal government, acted as the disbursing agent for the C. W. A.

Why did the C. W. A. set-up differ so radically from normal grant procedures? To sum up briefly, its unusual features were developed so that a huge employment program which would create a large spurt in consumer purchasing power could be placed in quick operation. As its immediate goal, the federal government desired to place 4,000,000 men and women at work on socially and economically desirable projects.[12] The aim of the C. W. A., moreover, was to pay its project workers considerably more than the usual work relief wage, so that the resultant sudden increase in purchasing power might help to stimulate business recovery. It was apparent that these aims could not be achieved satisfactorily through the state and local work relief programs being conducted with grants from the Federal Emergency Relief Administration.[13]

The method of direct federal-local contacts used by the C. W. A. was essential to the swift institution of the program. Each state office of the federal C. W. A. had the final word on project proposals submitted in its state; upon approval by the C. W. A. state office, a project could be started immediately. The quasi-grant technique of the C. W. A., under which disbursing functions and direct control of projects remained in federal hands, enabled the federal government to apply whatever wage

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ministration," *Municipal Year Book, 1937*, p. 420; and E. A. Williams, *Federal Aid for Relief* (New York, 1939), pp. 111–124.

[10] There was no requirement that state or local funds should be provided to "match" the federal contribution for C. W. A. projects. Project sponsors usually paid supervisory expenses and part of the costs of materials, however, and also provided tools and equipment.

[11] Confusion in the public mind arose from the fact that certain personnel played a dual rôle. In their capacity as state officials, they handled grants from the F. E. R. A.; they were also sworn in as federal officials to conduct the federal work program of the C. W. A.

[12] At the peak of the program (week of January 18, 1934), C. W. A. projects were employing 4,260,000 persons, of whom about 2,000,000 were able-bodied persons from relief rolls and the remainder were persons who had been unemployed but without relief status.

[13] Federal Emergency Relief Appropriation Act of 1933 (48 Stat. L. 55, ch. 30).

and hour policies seemed desirable, without having to coax, cajole, or threaten reluctant state agencies in order to secure enforcement.[14] Also, greater emphasis could be laid on projects for the large number of white-collar unemployed; under the earlier F. E. R. A. grant program, these clerical, professional, and service projects, and especially women's projects, had been neglected by many state and local relief administrations in favor of the more familiar construction work.

Though the C. W. A. program as a whole represented an improvement over previous work relief activities, certain factors prevented the agency from deriving the full potential advantages of the new federal aid procedures which it introduced. In some areas where advance planning or local ingenuity was lacking, local governments sponsored projects of limited usefulness. Adverse weather conditions and the forced selection of "short-term" projects (because of the avowedly temporary nature of the program) also hampered the C. W. A. When the same quasi-grant technique was later applied by the W. P. A., however, it resulted in much higher standards of projects and of operation.

W. P. A. Program. The federal aid techniques of the W. P. A.[15] have followed the main lines of the pattern laid down by the C. W. A. Like that earlier agency, the W. P. A. does not make outright grants to state or local governments. Instead, federal funds are merely "earmarked" to be spent on each particular undertaking which the W. P. A. has approved for operation.[16] The W. P. A. organizations in the states are not state agencies, but operating units of the federal agency in the field. Workers on the projects are paid directly by federal checks, materials are federally purchased, and federal accountants check the projects. The enforcement of wage and hour policies is likewise in federal hands (because title to the project funds never

[14] The serious difficulties of the F. E. R. A. in getting certain states to observe even a 30-cent-per-hour minimum work relief wage are discussed in Edward A. Williams, *op. cit.*, Chap. 3. Certain groups in the states were opposed in principle to raising relief standards, even when almost all the money spent by the state and local relief organizations came from federal sources. See Key, *op. cit.*, p. 364.

[15] The Works Progress Administration was set up under Executive Order No. 7034, May 6, 1935 (issued under authority of the Relief Appropriation Act of 1935), for the purpose of providing public employment for as many as possible of the 3,500,000 able-bodied workers on emergency relief rolls in 1935. On July 1, 1939, the W. P. A. (renamed Work Projects Administration) was grouped in the newly organized Federal Works Agency. For a brief general description of the W. P. A., see Emerson Ross, "Works Progress Administration," *Municipal Year Book, 1937*, pp. 433 ff. The agency issues full periodic reports entitled *Report on Progress of the W. P. A. Program*, the latest of which covers the fiscal year ending June 30, 1939.

[16] The "matching" requirements of ordinary grant statutes are not applied to the W. P. A. program. Project sponsors have from the beginning, however, contributed a substantial and increasing share of project costs; the 1939 relief act requires that project sponsors within each state shall bear at least 25 per cent of the total cost of all non-federal W. P. A. projects approved after January 1, 1940.

passes to the state or locality), and unlike the situation in F. E. R. A. days, the relief agency does not have to depend upon state or local prosecution in cases involving misuse of relief funds.

Nevertheless, the W. P. A. program is not wholly a *federal* venture. Practically all the projects have been planned, initiated, and sponsored by local governments. Furthermore, the establishing of "need" is a local function. With a few exceptions (usually where the state is unable or unwilling to provide funds for the purpose), the need of those applying for W. P. A. work is ascertained by local relief agencies. The W. P. A. checks all referrals, and from the ranks of the accepted group the Employment Division of the W. P. A. assigns workers to projects.

Conclusions. The experience of the three major employment-giving agencies seems to indicate that there is no one "best" method of extending federal financial aid to state and local governments. The appropriateness of the techniques used depends upon the purposes for which the federal allotments are made. When the giving of jobs is an important aim of a federal aid program, the federal-state relationships of the older grants-in-aid do not appear to be adequate.[17] Thus the P. W. A., the C. W. A., and the W. P. A. all adopted some system of direct federal-local contacts.

Aside from this major point of similarity, however, the intergovernmental relationships of the three agencies were not identical. The P. W. A., with the dual aim of providing employment *and* of bringing state and local public construction closer to normal levels, found it possible to preserve a large amount of local autonomy without adversely affecting the quality and efficiency of the program. The actual handing over of federal funds is feasible for such an agency as the P. W. A., because the recipients have long been accustomed to public works construction. Advertising for bids, letting contracts, and supervising construction work are routine functions for most local governments. Direct federal action in this familiar local activity would not only be unnecessary, but also would flout a strongly established tradition.

The handling of work programs designed primarily to relieve unemployment,[18] however, does not fall into the category of accustomed local

[17] It should not be overlooked, however, that the "short-circuiting" of state governments, however desirable it may be for a successful work program, conflicts with a general trend from local to state management in the field of public welfare. This tendency is being reinforced by federal grants-in-aid to the states, fostering integration on the state level of certain public assistance activities. The use of direct federal-local contacts on work programs therefore renders more difficult the achievement of coördinated relief and work programs within the states.

[18] On the W. P. A. program, at least 95 per cent of project employees must be persons certified as in need of relief. In practice, the percentage of certified workers has been about 97 per cent. The non-certified workers are usually supervisors or necessary technical persons who could not be supplied from relief rolls.

functions. Also, mass unemployment is a national, rather than a state or local, problem. Furthermore, since the federal government is largely financing the work relief program, it should have the controls necessary to effectuate its policies. F. E. R. A. experience has shown that the indirect nature of federal control under the usual grant method is insufficient to achieve a satisfactory work relief program except temporarily, when an emergency psychology stimulates great state and local coöperation.[19] The quasi-grant method was developed so that the federal government could have direct control over such important aspects of the program as the quality of projects, the diversity of projects (to fit the needs of the various classes of workers, construction and non-construction), the wages, hours and labor conditions, and the accounting and purchasing procedures.[20]

It is a tenable theory that the W. P. A. system, which still allows for considerable local autonomy, must approach even further toward federal control if the defects of the program are to be kept at a minimum. The agency has already found it necessary to modify its original intention of being merely a supplier of labor; more and more, except in larger cities, the W. P. A. has been supplying federal supervision for projects instead of leaving this function to local sponsors. Any fair analysis of the reports made by congressional investigators in 1939 and 1940 will reveal that local pressures, not federal, have been responsible for many of the difficulties on the W. P. A. program. Certain localities, for example, have sought to get work done on private property, or to place ineligibles on W. P. A. rolls, or to over-estimate their contributions as sponsors. These difficulties suggest that even the quasi-grant method, as now administered, may leave too much power in local hands. Stronger federal checks and more intensive federal supervision are needed. Thus, unless the process is thwarted by Congress through the continued paring-down of W. P. A. administrative funds,[21] the work principle which has already caused significant changes in federal aid techniques may have a still greater effect in the future.

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[19] See Edward A. Williams and J. Kerwin Williams, "The W. P. A. vs. Grants-in-Aid," *Survey Midmonthly*, Vol. 76 (March, 1940), pp. 91 ff.

[20] For testimony on the greater effectiveness of the W. P. A. method, see John D. Millett, *The Works Progress Administration in New York City* (Chicago: Public Administration Service, 1938), p. 215.

[21] Under the appropriation act of 1939, Congress restricted the W. P. A. to $50,000,000 (less than 3.4 per cent) for administrative expenses, necessitating the severe cutting of the administrative staff at Washington and in the field. A still greater reduction in the funds available for administration was made in the relief act for the fiscal year 1941—$41,534,000 for the year, and $30,875,000 if the total appropriation is spent in an eight-month period.

The Presidential Short Ballot. The term "presidential short ballot" is applied to the ballot form in which the names of candidates for presidential electors are omitted and only the names of the candidates for president or for president and vice-president appear. The vote for the party presidential candidates on the ticket is a vote for the party electors whose names are filed with the secretary of state. The voter may feel that he is voting directly for the presidential and vice-presidential candidates; actually, he is voting for the electoral candidates of the party represented by his favored candidate for the presidency.

This shortened ballot form is the result of three developments: (1) provision for a group vote for the electoral candidates of each party; (2) the addition at the head of the ticket of the names of the presidential candidates, whether the electoral candidates are voted on as individuals or as a group; and (3) introduction of the voting machine. Each of these developments started near the turn of the century.

During the first hundred years under the Constitution, whenever electors were chosen by popular vote, they were presented to the voter as individual candidates. In 1892, Massachusetts departed from this arrangement by providing for a grouping of the list of electors so that a single mark by the voter would serve for all electoral candidates nominated by a given party;[1] and the plan was adopted by Minnesota in 1901.[2] The device must not be confused with straight-ticket voting, which embraces the party candidates for all offices. It became evident that printing the names of electoral candidates in a group served to make the ballot more compact, simplified the task of the voter wishing to vote for all the electoral candidates of his party, and expedited the canvassing. Since the ballot contained a blank column or blank lines for the write-in privilege, this group arrangement did not infringe upon the right of the voter who wished to choose his electoral candidates from more than one party. Following the lead of Massachusetts and Minnesota, other states provided for the grouping of electors on the ballot.

Kansas in 1897 and Wisconsin in 1901 introduced the practice of printing on the ballot the names of the candidates for president and vice-president,[3] thus identifying each list of electoral candidates with the names made prominent by the campaign. The emphasis on the names of the presidential candidates has increased until today only ten states print simply the names of the electoral candidates.[4]

[1] *Laws of Massachusetts*, 1892, ch. 279. A. C. Ludington, *American Ballot Laws, 1888–1910* (New York State Library, 1911), surveys early ballot legislation.

[2] *Laws of Minnesota*, 1901, ch. 109.

[3] *Laws of Kansas*, 1897, ch. 129; *Laws of Wisconsin*, 1901, ch. 457.

[4] Alabama, Arkansas, Delaware, Florida, Idaho, Kentucky, Mississippi, New Mexico, South Carolina, and Texas.

These two changes in ballot arrangement—provision for a group vote and the addition of presidential names—have been made in some states in the same law—for example, Maryland in 1918.[5] Other states have made them in different years; for example, Nevada in 1929 added the names of the presidential candidates and in 1939 grouped the electoral candidates, printing only one voting square.[6] The printing of the names of the electoral candidates is a formality which the states that have made these two changes in ballot form will dispense with before many more presidential election years.[7]

The introduction of the voting machine, with its limitations as to arrangement and space, led Iowa in 1900, Indiana in 1901, New Jersey in 1902, and Illinois in 1903[8] to provide in the voting machine law that the names of electoral candidates might be omitted, that the ballot label might contain only the words "Presidential Electors" or the presidential names preceded by the party name, and that the voter might vote for any person of his choice by means of an "irregular ticket" (the term used for the write-in privilege on the voting machine). Other states also provided for this omission of electoral candidates on the ballot label of the machine (before their omission from paper ballots).[9] While the states were becoming accustomed to the idea of voting directly for the presidential candidates on the voting machine, the movements to group the names of the electoral candidates on the paper ballot and to add the names of the presidential candidates to the party name, preceding the list, continued to grow.

The first state to shorten the paper ballot by omitting the names of candidates for presidential electors was Nebraska in 1917. The phrasing

[5] *Laws of Maryland*, 1918, ch. 51.

[6] *Laws of Nevada*, 1929, ch. 44: "Nothing in this act shall be construed to permit the throwing out of any ballot because the elector has marked X after the names of such candidates for president and vice-president, though no space has been placed for such mark." The voting square was added in *Laws*, 1939, ch. 171.

[7] At present, 18 states print the names of the electoral candidates as a group, accompanied by the names of the presidential candidates: Arizona, Kansas, Maine, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, and Wyoming. Of these, Maine, New Jersey, New York, and Vermont also print a voting square beside the name of each electoral candidate. Since voting machines are used in all polling places in New York and Rhode Island, the provision of the voting machine law omitting the names of electoral candidates supersedes the provision governing the paper ballot.

[8] *Laws of Iowa*, 1900, ch. 37; *Acts of Indiana*, 1901, p. 591; *Laws of New Jersey*, 1902, ch. 205; *Laws of Illinois*, 1903, p. 179.

[9] Connecticut (*Acts*, 1903, ch. 207); Colorado (*Acts*, 1905, ch. 101); Nebraska (*Laws*, 1905, ch. 67); Wisconsin (*Laws*, 1907, ch. 583); New Hampshire (*Laws*, 1913, ch. 225); Oregon (*Laws*, 1913, ch. 337); and Washington (*Laws*, 1913, p. 180). Of these, Colorado, Nebraska, New Hampshire, and Oregon have repealed their voting machine laws.

of this initial law was:[10] "In the year nineteen hundred and twenty and every four years thereafter, the governor shall appoint as electors of president and vice-president, those persons selected in the preceding delegates state convention by the political party whose candidates for president and vice-president received the highest number of votes at the general election held in the within year and years, on such day as Congress may appoint."

Two years later, an Iowa law shortening the presidential ballot read:[11] "A vote for the candidates of any one political party, or group of petitioners for president and vice-president of the United States, shall be conclusively deemed to be a vote for each candidate nominated in each district and in the state at large by said party, or group of petitioners, for presidential electors and shall be so counted and recorded for such electors."

In 1921, an Illinois bill, similar to that of Nebraska, was vetoed by Governor Small because it provided for appointment by the governor of those electors whose party was favored at the polls, and hence appointment would not be on the date prescribed by Congress.[12] Wisconsin in 1925 and Illinois in 1927 enacted laws following the language of the Iowa law; and Nebraska in 1927 reworded its law accordingly.[13] In 1929, Michigan and Ohio adopted the presidential short ballot.[14] The wording of the Ohio law is: "A vote for names of candidates for president and vice-president is a vote for the electors of that party, the names of whom are on file with the secretary of state."

In 1931, Pennsylvania and Texas passed laws omitting the names of electors from the ballot.[15] The Texas law was not applied because in 1932 the attorney-general ruled that " . . . this act (Chapter 186) is so vague, indefinite, and uncertain that, in our opinion, it is incapable of either intelligent construction or application."[16] In 1932, Massachusetts, in 1933 Connecticut, Missouri, and North Carolina, and in 1935 Washington adopted the presidential short ballot.[17] The Indiana act for a presidential short ballot, approved February 28, 1933, was inadvertently repealed by a law providing for a separate presidential ballot box, approved on March 2,

[10] *Laws of Nebraska*, 1917, art. 1964, sec. 26.

[11] *Laws of Iowa*, 1919, ch. 86, sec. 6.

[12] Leon C. Aylesworth, "The Presidential Short Ballot," in this REVIEW, Vol. 24 (1930), p. 967.

[13] *Laws of Wisconsin*, 1925, ch. 250; *Laws of Illinois*, 1927, p. 450; *Laws of Nebraska*, 1927, ch. 105.

[14] *Acts of Michigan*, 1929, no. 306; *Laws of Ohio*, 1929, sec. 4785–107.

[15] *Acts of Pennsylvania*, 1931, no. 216; *Laws of Texas*, 1931, ch. 186.

[16] From an unpublished letter of Attorney-General James V. Allred to Secretary of State Jane Y. McCallum, Sept. 26, 1932.

[17] *Acts of Massachusetts*, 1932, ch. 35; *Laws of Connecticut*, 1933, ch. 67, sec. 165; *Laws of Missouri*, 1933, p. 225; *North Carolina Supplement*, 1933, ch. 165; and *Laws of Washington*, 1935, sec. 3, p. 46.

1933.[18] Laws providing for the omission of electors were enacted in California, Indiana, and Maryland in 1937.[19] Ten states authorized the use of the presidential short ballot in the decade 1930–39, bringing the number of states to 16 (including Texas). Of this number, all but three[20]—Nebraska, North Carolina, and Missouri—have voting machine laws to which the presidential short ballot law applies also.

The states which have enacted first voting machine laws or have reënacted a repealed law since 1917 specifically providing for the omission of Electoral College candidates from the ballot label are: Virginia (1922); New York (1924);[21] Arizona (1927); Florida (1929); Alabama, New Jersey, and Rhode Island (1935); and Tennessee (1937). Two of these—New York and Rhode Island—although not having a presidential short ballot law, will use the machine in all precincts in the 1940 election.[22]

The presidential short ballot may be justified in several ways. While independent voting may be valued and a split ticket for various offices may be evidence of discrimination, voting for a few electoral candidates of one party and a few of another party serves to cancel any effective choice for the presidency. Straight voting for one group of electoral candidates is common sense. The campaign and public discussions, prior to the election, have centered on the choice of candidates for president and vice-president—not on candidates for separate electoral offices. Consequently, for the average voter the presence of the names of electoral candidates is superfluous. Elimination of electoral names reduces the size of the ballot—a convenience to the voter in marking and to the election officials in canvassing—and lowers printing costs.

The presidential short ballot movement proceeded quite slowly until the decade of the 1930's. In the past 10 years, it has been appreciably accelerated. As shown by the accompanying table, the electoral vote affected by this reform for the 1940 election represents a clear majority; and the

[18] *Laws of Indiana*, 1933 (Feb. 28), ch. 1, sec. 29–112; *Laws*, 1933 (Mar. 2), ch. 92, p. 666. The point was confirmed by Mr. Fred C. Gause, member of the Indiana State Board of Election Commissioners, in a letter dated Nov. 14, 1939.

[19] *Statutes of California*, 1937, ch. 266; *Laws of Indiana*, 1937, ch. 61; *Laws of Maryland*, 1937, ch. 95, sec. 64.

[20] In 1921, Nebraska repealed its voting machine law, which provided for the omission of electors. North Carolina and Missouri have never enacted voting machine legislation.

[21] *Laws of New York*, 1924, ch. 442, sec. 242, and *Laws*, 1931, ch. 382. The validity of New York's action in eliminating electors on voting machines was sustained by the supreme court of King's county in Thomas v. Cohen, 262 N. Y. S. 230 (1933). J. E. Kallenbach, "Recent Proposals to Reform the Electoral System," in this REVIEW, Vol. 30 (1936), p. 924.

[22] *Laws of New York*, 1935, ch. 714, made the use of the machine state-wide (except for the primary election) for the general election of 1938; and *Laws of Rhode Island*, 1938, ch. 2640, made its use state-wide for all elections.

GROWTH OF THE PRESIDENTIAL SHORT BALLOT

State	*Electoral College Votes in Each Presidential Year*					
	1920	*1924*	*1928*	*1932**	*1936*	*1940*
Nebraska	8	8	8	7	7	7
Iowa	13	13	13	11	11	11
Wisconsin			13	12	12	12
Illinois			29	29	29	29
Michigan				19	19	19
Ohio				26	26	26
Pennsylvania				36	36	36
Massachusetts				17	17	17
Connecticut					8	8
Missouri					15	15
North Carolina					13	13
Washington					8	8
California						22
Indiana						14
Maryland						8
New York†						47
Rhode Island†						4
Total‡	21	21	63	157	201	296

* The reapportionment effective in 1932 altered the number of electoral votes in Nebraska, Iowa, and Wisconsin.

† With the exception of New York and Rhode Island, which require state-wide use of the machine in the 1940 election, states whose voting machine laws provide for the omission of names of electoral candidates are not included.

‡ Since the 1931 law is ineffective, Texas is omitted.

states included in the list embrace most of the populous commonwealths in all sections of the country.

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Organization of the Executive Branch of the National Government of the United States: Changes between April 12 and July 15, 1940.[1] As in previous lists, mention is here confined generally to units specifically authorized by law or established by the President by executive order or Reorganization Plans under general authority vested in him. Changes in units created by heads of departments or independent establishments are excluded unless of major importance.

Administration of Insecticide Act and Naval Stores Act. Transferred to

[1] Summaries of this nature appearing in the REVIEW prior to 1940 are listed on page 1044 of the issue for December, 1939. A note in the June, 1940, issue lists changes from October 1, 1939, to April 11, 1940.

Agricultural Marketing Service from Food and Drug Administration by Order 865 of the Secretary of Agriculture of June 19, 1940, effective June 30, 1940.

Advisory Commission to Council of National Defense. On May 28, 1940, the President announced the creation of an Advisory Commission to the Council of National Defense, although the official nomination of members by the Council did not appear until the publication of the *Federal Register* for June 26. The Council consists of the Secretaries of War, Navy, Interior, Commerce, Agriculture, and Labor, and the act of August 29, 1916 (39 Stat. L. 649), authorizes it to nominate and the President to appoint an advisory commission. The members of the Commission receive no compensation, but are reimbursed for expenses.

Alaskan International Highway Commission. Existence extended from 1938 to 1944 by Public Act 585, 76th Congress, approved June 11, 1940.

Auxiliary Commission to the Afra-Merican Emancipation Exposition Commission. Created by Public Act 522, 76th Congress, approved May 24, 1940, to have charge of expenditures on account of the American Negro Exposition to be held in Chicago from July 4 to September 2, 1940. The Commission consists of three persons appointed by the President, one to be a member of the House of Representatives and one a member of the Senate. An appropriation of $75,000 was made by Public Act 668, 76th Congress, approved June 27, 1940.

Board of Directors of the Canal Zone Biological Area. Created by Public Act 711, 76th Congress, approved July 2, 1940, to supervise the administration of an area to be left in a natural state for scientific observation and investigation. The Board consists of the Secretaries of War, Agriculture, Interior, and the Smithsonian Institution, the President of the National Academy of Sciences, and three distinguished biologists appointed by the President of the National Academy of Sciences with the approval of the Secretaries of War, Agriculture, Interior, and the Smithsonian Institution. The biologists serve for three years, the terms being staggered. The members serve without compensation, but are reimbursed for expenses. A salaried executive officer is to be appointed by the Board. Annual appropriations of $10,000 are authorized.

Bureau of Research and Statistics of the National Defense Advisory Commission. Created by the Commission on June 20, 1940, to provide a channel assuring the orderly flow of requests from the various commissioners to existing research and statistical agencies, trade associations, and business enterprises.

Division of Commercial Treaties and Agreements, State Department. Created by the Secretary of State June 29, 1940, effective July 1, 1940, to have charge of the formulation, negotiation, and administration of all commercial treaties and agreements and to coöperate in the formulation of international commercial policy.

Farm Security Administration, Department of Agriculture. Extended to June 30, 1941, by Public Resolution 88, 76th Congress, approved June 26, 1940.

Federal Alcohol Administration. Under Reorganization Plan No. III, made effective June 30, by Public Resolution 75, 76th Congress, approved June 4, the Federal Alcohol Administration was transferred to the Bureau of Internal Revenue. By Treasury Order No. 31 of June 12, 1940, the legal activities of the Federal Alcohol Administration were transferred to the Treasury Department and all personnel functions were vested in the Secretary of the Treasury.

By Treasury Order No. 30 of June 12, 1940, all the other duties of the former Federal Alcohol Administration are vested in a newly created Basic Permit and Trade Practice Division of the existing Alcohol Tax Unit of the Bureau of Internal Revenue. At the head of the new division is an Assistant Deputy Commissioner of Internal Revenue who is under the direction of the Deputy Commissioner of the Bureau of Internal Revenue in charge of the Alcohol Tax Unit.

Immigration and Naturalization Service. Transferred from Department of Labor to Department of Justice by Reorganization Plan No. V, submitted to Congress May 22, 1940, under authority of the Reorganization Act of April 3, 1939 (53 Stat. L. 561). Under that act the transfer would not become effective until 60 days after transmittal. By Public Resolution 75, 76th Congress, approved June 4, 1940, the transfer was made effective 10 days after the approval of the resolution. By Order 3888 of the Attorney-General of July 1, 1940, the administration of the Service was placed under the direction of the Special Assistant to the Attorney-General in charge of the Immigration and Naturalization Service.

Interior Department Defense Resources Committee. Created by the Secretary of the Interior on June 17 to coördinate the Department's control over strategic minerals, hydro-electric power, coal, oil, and other national defense essentials. It consists of the First Assistant Secretary, the Director of the Geological Survey, the Director of the Bureau of Mines, the Director of the Petroleum Conservation Division, the Director of the Grazing Service, the Director of the Bureau of Reclamation, the Assistant Commissioner of the General Land Office, and the Director of Forests.

National Defense Research Committee. Created by the Council of National Defense June 27, 1940, under authority of the act of August 29, 1916 (39 Stat. L. 649), to correlate and support scientific research on the mechanisms and devices of warfare, except those relating to problems of flight included in the field of activities of the National Advisory Committee for Aëronautics. The Committee consists of four named individuals, the President of the National Academy of Sciences, the Commissioner of Patents, an officer of the Army to be designated by the Secretary of War, and an officer of the Navy to be designated by the Secretary of the Navy. Its

members serve without compensation, but are reimbursed for expenses.

National Youth Administration. Extended to June 30, 1941, by Public Act 665, 76th Congress, approved June 26, 1940.

Navy Department. Bureau of Construction and Repair and Bureau of Engineering abolished and their functions transferred to the newly created Bureau of Ships by Public Act 644, 76th Congress, approved June 20, 1940. This act also authorizes the appointment, by and with the advice and consent of the Senate, of an Under Secretary of the Navy to serve during any national emergency.

Office for Coördination of National Defense Purchases. Created by the Council of National Defense June 27, 1940, under authority of the act of August 29, 1916 (39 Stat. L. 639), (1) to establish liaison between the Advisory Commission of the Council and the several offices of the government to insure proper coördination in purchases, (2) to determine the most economical and effective methods of purchase of repetitive items common to several agencies, (3) to collect statistics on purchase by federal agencies, (4) to coördinate research in procurement specifications and standardization, (5) to determine and keep current combined immediate material requirements of the several agencies, and to estimate future requirements so as to facilitate purchases, and to cushion the impact of such orders on the national economy, (6) to review existing laws and recommend to the President legislation to make government purchasing more efficient, and (7) to make recommendations to the President relative to priority of orders. The office is headed by the Coördinator of National Defense Purchases, who receives no compensation but is reimbursed for expenses.

Office for Emergency Management. Established in the Executive Office of the President by administrative order of May 25, 1940 (*Federal Register*, June 4, 1940, p. 2109), to be under the direction of one of the administrative assistants to the President. Its duties are to assist the President in respect to the clearance of information with respect to measures necessitated by the threatened emergency, and to maintain liaison between the President and the Council of National Defense and its Advisory Commission and with such other agencies as the President may direct.

Office of Administrator of Export Control. Created by the President July 2, 1940, by military order to administer sec. 6 of Public Act 703, 76th Congress, approved July 2, 1940, which authorizes control of exportation of commodities necessary for national defense. The office is headed by an officer of the Army.

Office of Merchant Ship Movements. Established in the Treasury Department by the Secretary of the Treasury on June 28, 1940, to control vessels in territorial waters in accordance with the proclamation of the President of June 27, 1940, and the regulations thereunder issued under

authority of the act of June 15, 1917 (40 Stat. L. 220). The office is headed by a commander of the Coast Guard.

Prison Industries Reorganization Administration. Continued until June 30, 1941, by Public Act 539, 76th Congress, approved May 31, 1940.

Reorganization Plans III and IV. Under the Reorganization Act, these plans, described in the June issue of the REVIEW, would have become effective on June 2 and June 11, respectively. By Public Resolution 75, 76th Congress, approved June 4, 1940, they took effect on June 30, the end of the fiscal year.

U. S. Official Mail and Messenger Service. Established by Executive Order No. 8427 of June 5, 1940, under the direction of the Postmaster General, to effectuate the administration of the messenger service transferred to the Post Office Department by Reorganization Plan No. IV.

United States University of Pennsylvania Bicentennial Commission. Created by Public Resolution 86, 76th Congress, approved June 20, 1940, to coöperate in celebrating the foundation of the University. It is composed of the President of the United States and four persons appointed by him, the President of the Senate and four Senators appointed by him, and the Speaker of the House of Representatives and four representatives appointed by him. The members serve without compensation, but an appropriation of $10,000 for expenses is authorized.

Work Projects Administration. Continued to June 30, 1941, by Public Resolution 88, 76th Congress, approved June 26, 1940.

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INTERNATIONAL AFFAIRS

Germany's *Lebensraum.* The most tantalizing problems faced by students of international relations are those which revolve around the question of motivation in national action. The rôle of ideas and attitudes in determining the behavior of nations is an obtrusive factor in every international situation.[1] Among characteristic ideologies appearing as a growing determinant of national action is the German ideology regarding *Lebensraum.* Here is one of those words which have been in the German language for a very long time, but which has been popularized by the National Socialists. Literally translated, *Lebensraum* means "living space," and when interpreted by anyone in Germany it is taken to indicate all that which is necessary for guaranteeing the life and development of the German people—physically, politically, and economically. It embraces all kinds of issues based upon prestige, historical, and geographical considerations. The terms "equal status" and "self-determination," indefinite though they were, may have seemed to have definite limits; but *Lebensraum* goes much beyond them. It is the greatest single underlying cause of the war and the keyword of the new empire for which Hitler and his followers are struggling. The Nazis became increasingly convinced that nothing can save Germany except a genuine expansion of her *Lebensraum* and the unconditional return of her old colonies.[2] This new empire must be consolidated in one compact mass in the center of Europe. First, the people of the same blood—Austrians, Sudeten-Germans—had to be incorporated; then the territory of Bohemia-Moravia, because of its geographical and strategic position, even though its inhabitants were mainly Slavs; while Slovakia had to be granted "independence" on account of "internal" disintegration.[3] The alleged chaotic conditions in Poland furnished Germany sufficient excuse for expanding her *Lebensraum* to the east. The struggle in the Baltic area is based also on *Lebensraum* conceptions,[4] and these apply similarly to Germany's activities and pronounced intentions in the Southeast of Europe,[5] the so-called "space of destiny" (*Schicksalsraum*).

It was not until after Greater Germany requested President Hacha to sign the document creating the "Protectorate of Bohemia and Moravia,"

[1] Albert K. Weinberg, *Manifest Destiny; A Study of Nationalist Expansionism in American History* (Baltimore, 1935), p. ix.

[2] Erich Obst, "Die Lebensräume der Weltvölker," *Zeitschrift für Politik,* Jan.–Feb., 1939, pp. 1–10.

[3] *Spectator* (London), Apr. 14, 1939, pp. 625–626.

[4] Henning-Thies, *Völkerringen im Ostseeraum* (Leipzig, 1939), pp. 93–111.

[5] Elizabeth Wiskeman, "The Drang nach Osten Continues," *Foreign Affairs,* 1939, pp. 764–773.

and placing the "destiny of the Czech people and lands trustfully in the hands of the Führer," that the term *Lebensraum* came more to the fore. Speaking of the deterioration in the European situation resulting from the German action against Czechoslovakia, Prime Minister Chamberlain at Birmingham on March 17, 1939, used these words:[6] "According to the proclamation which was read out in Prague yesterday, Bohemia and Moravia have been annexed to the German Reich. Non-German inhabitants, who, of course, include the Czechs, are placed under the German Protector in the German Protectorate. They are to be subject to the political, military, and economic needs of the Reich. . . . "

Obviously, the German action in Czechoslovakia was promoted by new methods, and the old principles of foreign policy to effect the union of Germans in, and the exclusion of non-Germans from, the Reich, was overthrown. German authors, after the launching of this protest, endeavored to soften the blow by referring to a "common living space" (*gemeinsamer Lebensraum*),[7] although Bohemia and Moravia remained subject to the political, military, and economic needs of the Reich.

Hitler responded in his Wilhelmshaven speech on April 1, 1939, that "England has no business in the German *Lebensraum;* that the German people of today, the German Reich of the present time, is not willing to sacrifice vital interests, and it is also not willing to contemplate rising dangers without taking action!" "For a thousand years," he asserted, "this area belonged to the *Lebensraum* of the German people."[8]

In the twentieth century, a "good press" is essential to diplomatic success in all ventures which cannot be conducted in secrecy. Some leading German authors devoted special attention to British foreign policies[9] and the German press repeatedly attacked Great Britain, alleging that her attitude was designed to prevent Germany from acquiring the living space necessary for her national existence, that Great Britain was hostile to any strengthening of Germany, and that she was bent on creating difficulties for Germany whenever the latter tried to ensure peace and security in the German *Lebensraum.* Chamberlain's defensive "Stop Hitler" policy, intended in reality merely to restrain Hitler from a new aggression, was twisted into a "new encirclement" threat against German vital interests. The allegations made before the World War about Britain's aggressive "encirclement" to crush the German Navy, to prevent Germany

[6] *British War Blue Book* (New York, 1939), pp. 10–11.

[7] Rozycki, "Böhmen und Mähren im Deutschen Lebensraum," *Deutsche Verwaltung,* No. 13 (July 10, 1939); Georg Hahn, *Grundfragen europäischer Ordnung* (Berlin, 1939), pp. 82 and 190.

[8] *Blue Book, op. cit.,* 58–59.

[9] Walter Bargatzki, *Der Sinn der englischen Festlandspolitik* (Munich, 1939); Hochschule für Politik, *Probleme Britischer Reichs- und Aussenpolitik* (Berlin, 1939); Fritz Berber, *Prinzipien der Britischen Aussenpolitik* (Berlin, 1939).

from gaining a legitimate place in the sun, and to destroy German commercial competition were revived.[10]

On June 29, 1939, the British Secretary of State for Foreign Affairs dealt at length with these charges and discussed in detail the issue of *Lebensraum*. His statements on the *Lebensraum* issue, demonstrating conceptions upon which British policy rests, included the following:[11] "We are told that our motives are to isolate Germany within a ring of hostile states, to stifle her natural outlets, to cramp and throttle the very existence of a great nation. What are the facts? They are very simple and everybody knows them. Germany is isolating herself, and doing it most successfully and completely. She is isolating herself from other countries economically by her policy of autarky, politically by a policy that causes constant anxiety to other nations, and culturally by her policy of racialism. . . . I come next to *Lebensraum*. This word, of which we have not heard the last, needs to be fairly and carefully examined. Every developed community is, of course, faced with the vital problem of living space. But the problem is not solved simply by acquiring more territory. That may indeed only make the problem more acute. It can only be solved by wise ordering of the affairs of a country at home, and by adjusting and improving its relations with other countries abroad. Nations expand their wealth, and raise the standard of living of their people, by gaining the confidence of their neighbors, and thus facilitating the flow of goods between them. The very opposite is likely to be the consequence of action by one nation in suppression of the independent existence of her smaller and weaker neighbors. And if *Lebensraum* is to be applied in that sense, we reject it and must resist its application. Through coöperation—and we, for our part, are ready to coöperate—there is ample scope for extending to all nations the opportunity of a larger economic life with all that this means, which is implied in the term *Lebensraum*."

This exposé by Lord Halifax was not left unchallenged. Numerous opposing articles were released in the German press, and the German Library of Information in New York released a bulletin containing an article under the title "*Lebensraum* vs. Finance-Diplomacy,"[12] excerpts from which are quoted below in contrast to the British arguments: "The leaders of the British Government who had an interest in giving the German word *Lebensraum* a sinister aspect have lifted it bodily from the German into the English without taking the pains to translate it or express it in the equivalent English terms. *Lebensraum* simply means 'living space'—or perhaps 'breathing space.' *Lebensraum*, or breathing space, is not the product of an artificial political policy—it is the natural outcome of geographical situation and environment. Britain's 'breathing space' became

[10] S. B. Fay, "How War Came," *Events*, Oct., 1939.
[11] *Blue Book, op. cit.*, p. 81.
[12] *Facts in Review* (New York), Aug. 16, 1939.

the British Empire, scattered over the globe, but connected by Britain's lines of communication—the life lines of the empire. 'Life Line—*Lebensraum.*' While England has the possibility of insuring her existence by economic exchange within the borders of the Empire, Germany cannot satisfy her own vital needs within the frontiers of the Reich. The lands of the southeast of Germany are of tremendous value to the Reich. If any attempt is made to block this mutual exchange of goods between countries, Germany must certainly regard such an act as hostile—just as England would regard any attempt to cut her so-called life lines to the Empire. The fundamental difference between *Lebensraum* and 'finance-diplomacy' is the studied political policy of a country. The English economic system is imperialistic and capitalistic. Here is the issue between England and Germany: the conflict lies between a legitimate natural force represented by Germany seeking to express itself and an artificial political expedient represented by England which by its very nature is self-devouring. The quicker the world understands this conflict and the issues involved, the better it will be. The *Lebensraum* doctrine should be recognized throughout the world—as is the Monroe doctrine. Then there would be less chance of political clashes between nations."

The instability of each equilibrium generates tensions that explode in cataclysmic readjustments through wholesale violence because the players of the game of power are unable or unwilling to achieve smooth and gradual readjustments by other means.[13] The prime force in German foreign policy, according to the "organic-biological" *Weltanschauung*, or philosophy of the National Socialist educators, is the urge to territorial expansion, involving the revolutionary use of the pressure of the population of a growing nation. This pressure takes no account of established conditions or mere legal titles. It is a struggle for existence, brutal and lawless—the right of the stronger to eliminate or subjugate the weaker. Rival national wills and national energies determine the boundaries between nations and the distribution of territory. "Plenty of room," said Ratzel long ago, "helps to maintain life!" This, comments Haushofer, is "the state-biological rule of life put into classic form." There is, he adds, a "natural right to room to live which may properly be brought to bear against owners of great spaces who have not the capacity to develop their reserves of space."[14]

Ratzel and Haushofer are the two principal exponents of this line of thought in Germany. Indeed, an entire school has arisen, for which all politics is determined by the material circumstances of geography: it is *Geopolitik.* In the study of *Geopolitik*, the name to be considered first is

[13] Frederick L. Schuman, *International Politics; An Introduction to the Western State System* (New York, 1937), p. 500.

[14] Hermann Rauschning, *The Revolution of Nihilism; Warning to the West* (New York, 1939), pp. 187–188.

that of the German geographer, Friedrich Ratzel (1844–1904). After the Franco-Prussian War, resulting in the political unification of the German states, the new German Empire became the most formidable competitor of England in the search for foreign markets for the products of its fast developing industries. So it was in Germany that the greatest impetus was given to the conscious application of modern geography to practical politics. In the seventies, Ratzel, after extended foreign travels, began his long list of works. Of his many writings, four establish him as the father of *Geopolitik: Über die Gesetze des räumlichen Wachstums der Staaten; Politische Geographie; Anthropogeographie;* and *Das Meer als eine Quelle der Völkergrösse.* In these writings, Ratzel, the geographer, makes modern geography the basis of imperialist policies, as exemplified in contemporaneous politics of commercial and territorial expansion. In the first of them he sets forth seven laws of expansionist growth of states, which laws are manifestly a rationalization of the expansionist history of the world powers of the past and present, motivated by the new Germany's venture in the same direction.[15]

Ratzel's followers, overwhelmingly German, are legion. The first to apply the term *Geopolitik* was the Swedish political scientist, Rudolf Kjellen (1864–1922). Describing states as superindividual living beings, he defines *Geopolitik* as follows: "*Geopolitik* is the science which conceives the state as a geographic organism or as a phenomenon in space." While Ratzel was the geographer led by his studies to the consideration of politics as motivated and directed by the potentialities of geography, Kjellen, on the other hand, was the political scientist turning to geography for guidance and content in his own field. He was the first to make *Geopolitik* the basis of a complete system showing the *realm* as the differentiating criterion in the relation of state to state, testing this approach to the subject in his empirical study of the Great Powers and later in a separate study of his own country. Kjellen thus proceeded from the empirical treatment of individual states to the elaboration of a methodology applicable to all states. The state being conceived as a biological organism and the realm as the body of the state, it follows that the state, like every other biological organism, must grow and have organs. In and through the realm, the state becomes geographically individualized—becomes a geographical individual. It applies to the realm the criterion of natural territory, i.e., it examines the capacity of the realm to feed its population as the basis for an autarchic economy. *Geopolitik* considers the realm from the points of view of space (*Raum*), size, shape, form; of situation (*Lage*) in relation to the sea or to other states; of changes of situation (*Lage*) by way of the changed power status of one or more neighboring states; of historic sides of the state, i.e., of the geo-

[15] Johannes Mattern, "From Geopolitik to Political Relativism," in *Essays in Political Science in Honor of W. W. Willoughby* (Baltimore, 1937), pp. 125–172.

graphic focus or change of political tensions in relation to other states. Consideration of the state from the point of view of space implies the study of the growth of the realm as the body of the state. Considered historically, this means that *Geopolitik* is concerned with the expansion by colonization or acquisition of neighboring territory. Says Kjellen: "Vitally strong states with limited space are under the categorical imperative to enlarge their space by colonization, amalgamation, or conquest.[16] Kjellen's theory, which conceives the state as identical with or analogous to a biological organism, has been effectively challenged, principally by French geographers.[17] Nevertheless, it laid the groundwork for the rather active group of geopoliticians in Germany as demonstrated by recent amalgamations and conquests.

The group, which is known as the school of *Geopolitik*, must be differentiated sharply from that of political geography. Adherents of *Geopolitik* may be in varying degrees political geographers, but political geographers need not be disciples of *Geopolitik*.[18] In his recent study of political geography, Derwent Whittlesey describes the dogma of "Geopolitics," in a chapter on "The Right of a State to Space," in the following words:[19] "Because every infant is born into a state, mankind grows up with an unreasoned conviction that his country or people is immutable, a force inseparably linked to a specific portion of the earth's surface. This feeling, transformed into argument, underlies many of the attempts to make political geography serve the purposes of this or that particular state—emotional efforts which have been rationalized into the dogma known as Geopolitics. The brutal, temporary dissection of territory incidental to warfare, and the more permanent and hardly less rude dismemberment produced by indicated peace terms, do not dislodge this faith that the state is inherently entitled to its proper space, to its place in the sun. Even the stubborn fact that two different states may lay equal claim to the same border zone fails to undermine the devotion of the opposing nationals to their respective articles of faith." Political geography is static and descriptive; it describes, discusses, and explains a condition. Geopolitics is a dynamic science; it has vivified the space.

In order to get to the pith of the National Socialist ideas concerning foreign policies and *Lebensraum*, one name deserves special mention, that of Professor Karl Haushofer, retired major-general and president of the

[16] Mattern, *op. cit.*, pp. 125–172.

[17] For instance, A. Demangeon, "Géographie politique," *Annales de Géographie* (1932): "Cet ensemble des connaissances, décoré du titre de Géopolitique, ne doit pas rester théoretique; il faut lui assigner un but pratique, qui est particulièrement de restaurer l'État allemand dans sa force et sa grandeur"; and J. Ancel, *Géopolitique* (Paris, 1936).

[18] R. Hartshorne, "Recent Developments in Political Geography," in this REVIEW, Vol. 29, Oct. and Dec., 1935.

[19] Derwent Whittlesey, *The Earth and the State* (New York, 1939), p. 8.

German Academy. With his school of *Geopolitik*, he has contributed a great deal to the clarification of the intentions of the National Socialist régime on foreign policy. Exceptional weight must be attached to his statements, because he has given expression to many aspirations and intentions of the régime with almost criminal candor.[20] Haushofer recently celebrated his seventieth birthday, and his many German followers and students call him "the Master," a master of another school of political thought. This school, fully recognized in Nazi Germany as a discipline of studies, has translated its criticism of the juristic conception of the state into an elaborate socio-political ideology in which the body politic is conceived as a million-headed individual, on the analogy of the old but much deprecated theory of the organic or biological character of the state. Haushofer's definition of *Geopolitik* may be rendered: "The science of political forms of life in their regional relationships, both as affected by natural conditions and in terms of their historical development."[21] It aims to furnish the armature for political action and guidance in political life. New principles of order can proceed only from the revolutionary dynamic powers. The German situation leaves the nation no political choice. Dynamic movement is necessarily more important for Germany in world politics than a static condition—a condition of holding on. Haushofer never tires of variations on the theme of the doomed British Empire. England has lost the "flair for rule" in the old, genuine sense. This, at all events, was the interpretation given to the placing of the Dominions on a basis of equality in 1926—a "most conspicuous surrender of power." While apparently at the height of power in territory controlled and in population, the Empire suffered a "drastic change of form into a more and more loosely developing association of states."[22] An eminent German author of the more conservative group, however, asserts that at first sight there appears a complete disintegration of the British Empire, but, in contrast to these elements of disintegration, numerous integrating forces are evident within the Commonwealth of Nations. The weakness in form is balanced by the strength of spiritual coöperation.[23] But Haushofer's "geopolitical" disciples return again and again to the fundamental importance of this fact of descent, of England's passive renunciation of world domination. England, in their opinion, is no longer in a position to defend her rule by arms. The time has come, therefore, to

[20] Rauschning, *op. cit.*, p. 186 ff.

[21] John K. Wright, "Geography and the Study of Foreign Affairs," *Foreign Affairs*, Oct., 1938, pp. 153–163; see also, N. J. Spykman, "Geography and Foreign Policy, I," in this REVIEW, Feb., 1938, pp. 28–50; also N. J. Spykman and A. A. Rollins, "Geographic Objectives in Foreign Policy, II," in this REVIEW, Aug., 1939, pp. 591–614.

[22] Karl Haushofer, *Weltpolitik von heute* (Berlin, 1936).

[23] Heinrich Triepel, *Die Hegemonie: Ein Buch von führenden Staaten* (Stuttgart, 1938), pp. 191–200.

admit younger elements to world rule.[24] The new Germany might be ready to take upon her own shoulders the "white man's burden" which has grown too heavy for England's tired shoulders. France, too, in their opinion, is a "dying" nation, both physically and politically. Germany is the leading "renovating" power!

A quite prolific author, Karl Springenschmid, whose books contain many newly designed geopolitical maps, sketches, and illustrations, has also helped to popularize this dynamic geopolitical science among the youth of Germany,[25] assisted by the regular issues of the *Nationalsozialistische Schulungsbriefe*. In 1935, there was also established a German governmental institute for spatial research (*Reichsstelle für Raumordnung*). It publishes a monthly journal entitled *Raumforschung und Raumordnung* and studies, plans, and supports geopolitical actions undertaken by the Reich. In liquidating the recently conquered Poland, this institute prepared plans sketched by Adolf Hitler in his speech of October 6, 1939, in order "to create for all times peaceful developments in this space."[26]

Unfortunately, the writer cannot cover within the limits of this presentation all the interpretations,[27] influences, and descriptions of this new school of geopoliticians. There has grown up a considerable body of literature in connection with their teachings, comprising a number of impressive works of individual and collective authorship. A representative list and a synthesis of their work is found in the *Zeitschrift für Geopolitik*, the journal of the school since the year 1924 under the chief-editorship of Major-General Dr. Karl Haushofer. In addition to articles, this journal contains a record of events of "geopolitical" interest in different parts of the world, including valuable news on military preparedness and defense, book reviews, book lists, and also diagrammatic maps, but few other illustrations. Probably the most important books to be mentioned from the elaborate bibliography on *Geopolitik*, frequently written in the somewhat curious language of geopolitics, are the set of three volumes edited by Karl Haushofer under the collective title *Macht und Erde*, and consisting of the following: Vol. I., *Die Grossmächte vor und nach dem Weltkriege;* Vol. II., *Jenseits der Grossmächte;* and Vol. III, *Raumüberwindende Mächte*. According to Otto Maul in *Das Wesen der Geopolitik* (Berlin, 1936), this set was prepared as a German counterbalance to Dr. Isaiah Bowman's *New World; Problems of Political Geography* (New York, 1928). The important problem of frontiers has been treated adequately in Karl Haushofer's *Gren-*

[24] G. Wirsing, "Die wahre Wurzel des Konflikts," *Das XX. Jahrhundert*, Sept., 1939.

[25] Paul-Louis Hubert, "La géopolitique," ou "le nouveau pangermanisme," in *L'Europe Nouvelle*, Apr. 23, 1938, pp. 417–420.

[26] H. Daeberler, "Die neuen Aufgaben der Raumordnung," in *Der Deutsche Volkswirt* (Berlin, Nov. 10, 1939), pp. 155–156.

[27] For instance, H. Offe, "Geopolitik und Naturrecht" in *Zeitschrift für Geopolitik* (1937), pp. 239–246.

zen in ihrer geographischen und politischen Bedeutung (Berlin, 1927; revised, Heidelberg, 1939)[28] The bibliography on *Geopolitik* discloses a number of regional studies. Of timely interest may be mentioned a study relating to the Mediterranean realm by Hans Hummel and Wulf Siewert, *Der Mittelmeerraum—zur Geopolitik eines maritimen Grossraumes* (1936), and as to the area of the Pacific Ocean, Karl Haushofer's *Geopolitik des Pazifischen Ozeans* (Berlin, 1937). Studies in the mutual interplay of geopolitics and law are few; Manfred Langhans-Ratzeburg has made the principal contribution: *Die grossen Mächte geojuristisch betrachtet* (Berlin, 1931). Several geopolitical atlases have been published in order to supplement and promote the study of *Geopolitik*. F. Braun und Hillen Ziegfeld's *Geopolitischer Geschichtsatlas* (Dresden, 1934), with an accompanying volume, *Weltgeschichte im Aufriss*, may be mentioned, besides Schmidt-Haack, *Geopolitischer Typenatlas; Zur Einführung in die Grundbegriffe der Geopolitik* (Gotha, 1929).[29]

Not every person can be said to be a philosopher, but every person who gives any thought to the meaning of human existence necessarily formulates for himself certain standards of conduct and seeks the realization of certain ends which find their source in a philosophy of life, even though that philosophy never finds complete and explicit formulation in his own mind. So it is, also, with nations. If the search be made, it will be found that their policies are determined by certain ends which they are seeking to realize, and that they justify these ends to themselves, and the means which they employ in attaining them, by fundamental conceptions regarding the nature of political authority, coupled at times with a belief in the possession by themselves of special virtues or qualifications. These fundamental conceptions, which together constitute their political philosophy, supply the test or touchstone for determining not simply the expediency, but the rightfulness, of the acts of their governments.[30]

For example, the *New Statesman and Nation* (London) on August 26, 1939, illustrated in an article on "Hitler's World Revolution" how the once startling doctrine of "the geographical pivot of history," expounded by the British geographer Sir Halford Mackinder in 1904,[31] was utilized by General Karl Haushofer as a background to help effect a Russo-Ger-

[28] See also Richard Hartshorne, "A Survey of the Boundary Problems of Europe," in C. C. Colby (ed.), *Geographic Aspects of International Relations* (Chicago, 1938).

[29] For an additional list of atlases and maps, see E. Wunderlich, "Neue geopolitische zu beachtende Karten und Atlanten," in *Zeitschrift für Geopolitik*, Sept., 1938, pp. 750–752.

[30] Westel W. Willoughby, *Prussian Political Philosophy* (New York, 1918), pp. 2–3.

[31] H. J. Mackinder, "The Geographical Pivot of History," in *Geographical Journal*, No. 4, pp. 434–437 (Apr., 1904)—a lecture read to the Royal Geographical Society, London, followed by discussions thereon.

man *rapprochement*, leading to the well-known agreement in August, 1939. Sir Halford's ideas expressed in 1904 were later expanded and applied to the practical problem of the reorganization of the world after the Great War. In a book bearing the significant title, *Democratic Ideas and Realities*, published in 1919 while the Peace Conference was deliberating at Versailles, he urged the vital necessities of basing the new world order, not upon democratic sentimentalities, but upon the hard geographical and geopolitical facts underlying history. The chief lesson to be derived from these, in his opinion, was the vital necessity of preventing Germany and Russia from joining forces. These two powers were able by the control of the heartland to dominate not only the Old World but the world as a whole. They had lost the war because they had been fighting on opposite sides, but by that common loss they might well learn their lesson and unite.

These ideas of Sir Halford Mackinder might have remained completely unnoticed in Germany if it had not been for a man who later became the dominant influence in Nazi policy.[32] It was General Haushofer who seized upon Sir Halford's book in one of the first issues of the *Zeitschrift für Geopolitik*, and recommended it as an extremely valuable medicine. His real hour, however, came with Hitler's accession to power. Rudolf Hess, Hitler's deputy in the leadership of the Nazi party, had been Haushofer's aide throughout the war and later on for a time his assistant at his institute for *Geopolitik*. Through him Haushofer had come into contact with the Nazi movement almost from the beginning, and he exercised through his contacts with its leading figures a profound influence upon its policies —in particular in the field of foreign affairs and in seeking a *rapprochement* with Russia.

Haushofer openly admits that he considers Mackinder's "geographical pivot of history" the conception closest to his own—indeed, an outstanding school of geopolitics printed on a few pages.[33] In the jubilee edition of the *Zeitschrift für Geopolitik*, in honor of the seventieth birthday of Haushofer, Mackinder's map, which accompanied his article on the geographical pivot of history, is conspicuously reproduced and appreciation expressed to him for his valuable teachings.[34] In the same edition it is also asserted that the term *Lebensraum* has duly entered the vocabulary of diplomacy, although at times used in a distorted form.[35] Professor Jessup has recently classified it with other slogans of diplomacy, like "manifest destiny" and "the white man's burden."[36]

German international lawyers are endeavoring to prepare the founda-

[32] See also leading article in *Washington Evening Star*, Oct. 1, 1939: "Russo-German Entente Follows Path Exposed by 'Geopolitician'—Idea of Briton, Sir Halford Mackinder, Traced to Ears of Hitler After Lying Dormant for a Generation." [33] Karl Haushofer, *Raumüberwindende Mächte* (Leipzig, 1934), p. 76.

[34] *Zeitschrift für Geopolitik*, Aug.–Sep., 1939, p. 681. [35] *Ibid.*, p. 638.

[36] P. C. Jessup, "The Reality of International Law," *Foreign Affairs*, Jan. 1940, p. 246.

tion for an eventual application of this term in international law, at least in what may be termed "German" international law. The school of Hans K. E. L. Keller is attempting to replace the old principles of international law, which Keller holds were inspired by British and French policy, with new ones based on German needs.[37] Early in 1939, Carl Schmitt, a German professor of law and politician, released a booklet on the question of "greater space" in international law.[38] A brief review of this booklet will throw additional light on the attempt to introduce the so-called *Lebensraum* doctrine into international law. The author begins by tracing examples of unreal or obsolete principles concerning areas, such as "spheres of influence," "back country," "contiguity," or "propinquity," and emphasizes that the discussion of principles relating to "space" has been considerably neglected during the last century by the science of international law. The reason for this neglect he sees in the governance by an empty legal and treaty positivism, which was solely the juristic instrument of legality and legitimacy of the *status quo*, especially the *status quo* of Versailles. International law of the nineteenth century more or less sanctioned the "balance of power" theory, thereby approving certain arrangements of areas. Another principle, "spatially defined," is that of "natural frontiers." It served the French policy of expansion for centuries until in 1848 it lost much of its validity as a principle of international law. During the last decades, still another principle, the right of nations to space and soil, has been advanced. In this connection, the Locarno Pact deserves special mention, and it could have served successfully as a foundation for a regional pacification on the basis of a good neighbor policy if France had not concluded the agreement with Soviet Russia. Schmitt therefore concludes that regional pacts failed to arrange the settlement of questions pertaining to areas.

[37] Hans K. E. L. Keller, *Das Recht der Völker: I. Abschied vom Völkerrecht* (Berlin, 1938). See also Ernst Rudolf Huber, *Verfassung*, paragraph on "Volk und Raum" (Hamburg, 1937), pp. 58–60; Louis Le Fur, *Les grands Problèmes du Droit* (Paris, 1937), pp. 378–388; H. Mankiewicz, *Le Nationalsocialisme Allemand* (Paris, 1937); F. Giese und E. Menzel, *Vom deutschen Völkerrechtsdenken der Gegenwart* (Frankfurt, 1938); Karl Petraschek, *System der Philosophie des Staates und des Völkerrechts* (Zürich, 1938). Eduard Bristler, *Die Völkerrechtslehre des Nationalsozialismus* (Zürich, 1938); Hahn, *op. cit.;* Ulrich Noack, *Das Politische Ethos in der Europäischen Diplomatie* (Hamburg, 1939). Jacques Fournier, *La Conception Nationale-Socialiste du Droit des Gens* (Paris, 1939); Lawrence Preuss, "National Socialist Conceptions of International Law," in this REVIEW, Aug., 1935, pp. 594–609; Virginia L. Gott, "The National Socialist Theory of International Law," *Amer. Jour. of Internat. Law*, Oct., 1938, pp. 704–718.

[38] Carl Schmitt, *Völkerrechtliche Grossraumordnung—Mit Interventionsverbot für raumfremde Mächte* (Berlin, 1938). See also article by same author: "Grossraum gegen Universalismus—Der völkerrechtliche Kampf um die Monroedoktrin," in *Zeitschrift der Akademie für Deutsches Recht*, May 15, 1939; and for similar statements, F. Schoenemann, *Die aggressive Wirtschaftspolitik der Vereinigten Staaten in Südamerika und die Stellung Deutschlands* (Stuttgart, 1939), pp. 11–28.

He then devotes a lengthy chapter to the Monroe Doctrine as the first and most significant application of the principle relating to greater area. He realizes that this doctrine was subjected to various interpretations during its course of development, but he is concerned only with its original meaning, which he characterizes as follows: (1) independence of all American states; (2) no foreign colonization; and (3) non-intervention in this area. Our endeavor to introduce the idea of principles relating to greater areas into international law will find here its best foundation and starting point, exclaims Schmitt. However, it should be made clear from the outset that it is not merely a matter of adopting the American Monroe Doctrine by simply transferring it to other countries and times. Our task is to demonstrate the applicability of the fundamental theme as a principle of international law relating to greater areas for other living spaces and other historical situations. For us, it is decisive that the original Monroe Doctrine of 1823 is the first declaration in the history of modern international law which speaks of an area and establishes for it the principle of non-intervention by "spatially-foreign" powers. The capitalistic imperialism, for which ends President Theodore Roosevelt misused the Monroe Doctrine at the beginning of the twentieth century in order to effect his "dollar diplomacy," changed the underlying original idea so radically that it departed from a concrete, "spatially-defined" principle in order to join the "universalism" sponsored by the British Empire. Woodrow Wilson and President Franklin D. Roosevelt followed the same path. Schmitt then contrasts the Monroe Doctrine with the British principle of the "security of the life-lines of the Empire." He arrives at the conclusion that the universalism of this principle is nothing but the open expression of the *status quo* interest of a world empire. In his next chapter, he examines the rights of minorities and groups of people in the Central and Eastern European area, and he tells Great Britain and France that they have nothing to do with these areas. Schmitt concludes that the new conception of a new international law is our conception of *Reich*, which draws its strength from the people (*Volk*) located on a regulated area, and who, as the ultimate source of power, is the highest unit in the table of national values.

A review of the foreign policies of National Socialist Germany during the past years discloses many colorful events, complex interactions, different behavior patterns, and tensions[39]—an unsatiated state, discontented, ambitious, restless, and bent upon modifying the *status quo* to her advantage, in order to acquire the coveted *Lebensraum*.[40]

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[39] Axel Freiherr von Freytagh-Loringhoven, *Deutschlands Aussenpolitik 1933–1939* (Berlin, 1939).

[40] Auswärtiges Amt, *Dokumente zur Vorgeschichte des Weltkrieges* (German White Book), No. 2 (Berlin, 1939).

RESEARCH AND INSTRUCTION

Research Facilities and Materials at The National Archives. The National Archives was established in 1934 as an independent agency.[1] The primary objectives of its staff have been described by the Archivist as, first, the concentration and preservation in the National Archives Building of non-current federal archives having permanent or long-time administrative value or historical interest; and, second, "the administration of such archives so as to facilitate their use in the business of the Government and in the service of scholarship."[2] Operations were begun in 1935 with a survey of federal records located in and near the District of Columbia. As it drew to a conclusion in 1939, the survey had resulted in the accumulation of reports on a total of 2,729,393 cubic feet of records.[3]

Transfer of records to the National Archives Building was begun in December, 1935, and during the next four years more than 200,000 cubic feet of paper records were received. The materials, representing accessions from all 10 executive departments, some 30 independent agencies, four federal courts, and the United States Senate, occupied at the end of 1939 about one-fourth of the available stack space in the building. Non-current materials continue to be received daily, and although there are indications that the rate of transfer is leveling off, it will probably be some years before the century and a half of record accumulations will have been completely dealt with.

While description in terms of thousands of cubic feet may leave the researcher bewildered, it serves to emphasize the fact that The National

[1] 48 Stat. 1122–1124. A National Archives Council and a National Historical Publications Commission also were created by the act. The Commission, as its first project, has recommended to Congress the collection and publication of original materials relating to the ratification of the Constitution and the first ten amendments. See *Fifth Annual Report of the Archivist*, 1938–1939, pp. 93–94.

[2] *First Annual Report of the Archivist*, 1934–1935, p. 10. A third primary objective was added by the Federal Register Act, approved July 26, 1935 (amended June 19, 1937), charging the Archivist with responsibility for the publication and custody of rules, regulations, notices, and other documents having " . . . general applicability and legal effect . . . , " issued by federal administrative agencies. See *Fifth Annual Report of the Archivist*, pp. 39–41. Under this act, the *Federal Register* is issued five days a week. In addition, by the end of the calendar year 1939 the first volume of a "Code of Federal Regulations," expected to run to 14 volumes and an index, had been issued. The Code will cover the several types of orders in force on June 1, 1938. Supplements will be published annually. Daily issues of the *Federal Register* from March 14, 1936, to June 3, 1938, have been bound in five volumes; but the place of such volumes in the future will be taken by supplements to the Code.

[3] *Fifth Annual Report of the Archivist*, p. 3. In addition, 17,737,879 running feet of motion-picture film, 2,346,598 still-picture negatives, and 5,495 sound recordings were surveyed.

Archives " . . . is not primarily an antiquarian, or even a historical, institution. . . . "[4] It is rather a public record office, designed not only to secure the preservation of historic manuscripts but to preserve and make available for use the vast quantity of day-to-day records which may be called for by the public administrator or the private research worker. Much material which hitherto has been largely inaccessible is thus being brought within reach. Some groups of records have been transferred from attics, basements, and other storage rooms under the control of agencies which had neither physical facilities nor personnel sufficient to accommodate the research worker.

Not the least of tangible benefits derived from the centralization of noncurrent records in the National Archives Building is improvement of the physical conditions under which research may be carried forward. Desk space in controlled, air-conditioned "search rooms" is available, with access to finding mediums, records, and specialized library materials.[5] The library has succeeded in obtaining an extensive collection of official publications and, in addition, emphasis is being placed on studies relating to the federal government and its agencies and on biographies of persons who have been associated with the federal government. Facilities include the personal aid of reference experts and, on application, the reproduction of documents at cost, either as photostatic copies or as micro-copies on film. Finally, in response to requests by mail, "reasonable searches" will be made.[6]

As a result of being moved about from place to place during the years, many of the records have become disarranged. Staff members are undertaking the reconstruction of these record groups and, for these and other groups, are producing various finding aids by which the research worker may locate the particular records in which he is interested. These are available at The National Archives,[7] but of chief interest to the private investigator are the printed "guides," the first of which was included as an appendix to the *Third Annual Report of the Archivist*, published early in 1938. A revised edition of this guide, running to approximately 250 pages as compared with the 58 pages of the original edition, is to be published as a separate volume in 1940. The 1940 edition, although described, like its

[4] "The National Archives of the United States," *Bulletins of The National Archives*, No. 1 (Nov., 1936), p. 13.

[5] Circular No. 2, *Rules and Regulations for the Use of Records*, requires persons desiring to use the records to make application for admission to the search rooms, and at the discretion of the Archivist, to present an acceptable letter of introduction.

[6] "The National Archives of the United States," pp. 9–10. Films or sound recordings are exhibited to " . . . those who have adequate reasons for desiring to see them."

[7] A description of these finding aids may be found in the *Fifth Annual Report of the Archivist*, pp. 22–27.

PRINCIPAL GROUPS OF DEPARTMENTAL RECORDS TRANSFERRED TO THE NATIONAL ARCHIVES

	Chronological Range	
	Main Body of Records	*Other Series or Items*
DEPARTMENT OF STATE:		
Archives Section: central departmental files	1774–1906	1744–1936
Division of Accounts	1785–1906	1907–1925
Consular Commercial Office	1925–1931	
Foreign Service (various consular and diplomatic posts)	1793–1912	1913–1937
Passport Division	1791–1879	
Recruiting and Selection Section	1789–1906	
DEPARTMENT OF THE TREASURY:		
Division of Bookkeeping and Warrants	1814–1931	1762–1937
Coast Guard (ship and station log books)	1875–1935	1830–1874
Bureau of Internal Revenue (estate tax returns)	1916–1925	
Permit Division, Prohibition Unit*	1919–1925	
Public Buildings Branch, Procurement Division*	1837–1925	1926–1927
Public Debt Service	1776–1860	
Secret Service Division	1863–1918	1919–1934
DEPARTMENT OF WAR:		
Secretary's Office (correspondence files)	1800–1913	1914–1917
The Adjutant General's Office	1803–1917	
Army Archives	1775–1912	
Archives Section, Chief of Engineer's Office	1800–1894	
Chief of Finance's Office (central accounting books)	1800–1925	
Commissary General of Prisoners' Office*	1861–1866	
Provost Marshal General's Bureau*	1862–1866	
Bureau of Refugees, Freedmen, and Abandoned Lands*	1865–1872	
Surgeon-General's Office	1818–1894	1895–1921
DEPARTMENT OF JUSTICE:		
Records Division: central departmental files	1790–1910	1917–1939
Division of Accounts	1870–1907	1908–1928
Appointment Clerk's Office	1853–1903	1904–1912
Claims Division (closed cases before Court of Claims)	1868–1939	
Disbursing Clerk's Office	1857–1908	1909–1920
General Agent's Office*	1882–1907	
Judicial Statistics Unit	1926–1936	
Pardon Attorney's Office	1853–1912	1913–1939
Office of the Solicitor of the Treasury*	1820–1895	1800–1933
War Transactions Section	1922–1926	1927–1939
DEPARTMENT OF THE NAVY:		
Secretary's Office	1885–1926	1851–1885
Bureau of Aëronautics	1914–1936	
Chief of Naval Operations' Office	1882–1912	1913–1937
Bureau of Construction and Repair	1842–1911	1795–1921
Bureau of Engineering	1862–1922	1845–1932

(*cont'd on next page*)

	Chronological Range	
	Main Body of Records	*Other Series or Items*
Judge Advocate General's Office	1880–1907	1861–1939
Bureau of Medicine and Surgery (correspondence files)	1842–1911	
Bureau of Navigation	1862–1885	1801–1929
Naval Observatory	1840–1911	
Bureau of Ordnance	1885–1915	1842–1935
Bureau of Yards and Docks	1839–1910	
DEPARTMENT OF THE INTERIOR:		
Secretary's Office	1849–1907	1908–1930
Commissioner of Railroads*	1878–1904	
Office of Education	1870–1894	
Alaska Division	1885–1931	
General Land Office (dockets of contested railroad land)	1872–1909	
Office of Indian Affairs	1790–1921	1922–1935
Bureau of Insular Affairs*	1898–1935	
National Park Service (construction and care of parks and buildings in the District of Columbia)	1790–1909	1910–1925
U. S. Geological Survey (correspondence and reports)	1879–1901	1867–1879
DEPARTMENT OF AGRICULTURE:		
Secretary's Office	1889–1930	1879–1935
Bureau of Agricultural Economics	1913–1921	1922–1938
Bureau of Agricultural Engineering*	1915–1931	1898–1914
Bureau of Animal Industry	1894–1927	1928–1930
Bureau of Chemistry*	1878–1918	
Bureau of Entomology and Plant Quarantine	1883–1924	1925–1937
Food and Drug Administration	1918–1929	1907–1937
Forest Service	1886–1912	1913–1925
Bureau of Plant Industry	1891–1928	1886–1932
Bureau of Soils*	1894–1918	1919–1921
Soil Conservation Service	1933–1936	
Weather Bureau	1873–1912	1819–1932
DEPARTMENT OF COMMERCE:		
Census Bureau (inactive personnel files)	1890–1938	
Coast and Geodetic Survey (technical records of observations and surveys)	1817–1934	
Bureau of Fisheries	1871–1906	
Bureau of Lighthouses	1852–1931	
Bureau of Navigation*	1865–1906	1794–1932
Personnel Division (inactive personnel files)	1903–1937	
Steamboat-Inspection Service*	1852–1923	1924–1928
DEPARTMENT OF LABOR:		
Immigration and Naturalization Service (immigration, Americanization, and immigration personnel files)	1903–1932	
Women in Industry Service*	1918–1920	

* Name changed, functions transferred, or defunct.

predecessor, as being tentative, will present descriptive and historical data on the records and on the agencies which accumulated them, together with bibliographical references, data upon existing finding mediums, and information concerning the availability to private research workers of particular record groups.[8]

An attempt has been made in the accompanying table to show the chronological range of the principal record groups transferred from the executive departments. Subdivisions are listed from which the extant records for a particular period, accumulated either in the subdivision or by its predecessors, have been deposited in the National Archives Building. In addition, where a majority of records have been transferred but others remain in the custody of the subdivision, the name of the subdivision is given, with the type of record indicated in parentheses. Frequently, individual series of records or individual items extend chronologically beyond the terminal dates of the main body of records. In such cases, the covering dates have been shown in a second column. The tabulation is suggestive rather than definitive, however, since many individual series have been received from subdivisions not shown. Minor series have been transferred from the Post Office Department, for instance; but since no major archival group has been received from any of its subdivisions, this department is missing from the table.[9]

The kind and extent of these record groups vary widely, depending upon the activities of the subdivision; in part, upon the kind of administrative organization which has prevailed in the department as a whole; in part, upon the filing practices of the subdivision; and, not the least, upon past practices in regard to the disposition of records thought to be valueless. Usually the basic element is a "correspondence" or "document" file, which in later years may have been expanded into a "subject" file under a numerical filing scheme. There may be schedules and questionnaires, case records, dockets of hearings, or tabulations. Reports of all kinds and from all manner of officials—county agent to ambassador—will be found, and much processed or printed material which has been incorporated in the

[8] The use of some records is restricted by statute. Otherwise, the more notable restrictions are those placed upon records of the Department of State, which are open to August 14, 1906, and upon records of the Department of Justice, open after a fifty-year period has elapsed (that is, open to 1890 in 1940). The use of War Department records is subject to an agreement whereby calls are processed through a War Department representative on duty at The National Archives. Particular groups of records from other departments also are covered by restrictions or by other agreements as to use.

[9] The investigator is referred to the 1940 edition of the guide, in which all records received to the end of the calendar year 1939 are described. The writer is indebted to the various chiefs of custodial divisions and their associates for the information given in the table.

files. Frequently there will be personnel records. Fiscal records of the non-fiscal subdivisions are more likely to have been destroyed, on the assumption that original materials will have been retained elsewhere.[10]

Many groups of records have been received which originated, not in the executive departments, but in temporary commissions, independent boards, and other agencies, most of them now defunct. Extant files of World War agencies constitute the bulk of these—a tremendous bulk, relatively unexplored by students of government. Included are the records of the Council of National Defense, Committee on Public Information, War Industries Board, U. S. Shipping Board and Emergency Fleet Corporation, Food Administration, U. S. Wheat Director, Fuel Administration, Railroad Administration, Alien Property Custodian, Fir Production Board, National War Labor Board, and the post-war Bituminous Coal Commission (1919–21) created to adjust controversies between miners and operators, which grew out of a 1917 wage agreement. In the latter field of labor relations, the past activities of independent agencies are reflected *in extenso*, beginning with the extant files of the U. S. Board of Mediation and Conciliation (1898–1921), through the war-time agencies mentioned above (including incomplete files of the War Labor Policies Board), and continuing with the extant files of the U. S. Railroad Labor Board (1920–26), and the Washington headquarters records of the National Labor Board (August, 1933–July, 1934) and the first National Labor Relations Board (June, 1934–August, 1935). So recent an experiment in governance as the National Recovery Administration also is represented, its regional headquarters and state office records (1933–36) having been deposited in The National Archives.

The largest single body of records so far received has come from the Veterans' Administration. It consists of 35,009 cubic feet of non-current pension case files for the years 1861 to 1929. Less complete and far less bulky groups and series of records have been received from other independent agencies, some still in operation, some defunct, but too numerous to mention in this brief survey of materials. Of interest to political scientists would be such records as those from the Office of the Special Adviser on Foreign Trade (1933–36); records of the President's Commission on Economy and Efficiency (the Taft Commission); of the National Commission on Law Observance and Enforcement (the Wickersham Commission); and of a number of the special committees appointed by President Hoover to inquire into problems of public policy. One might also mention the records of the former Board of Indian Commissioners (1869–1933), an independent advisory board whose experience may be worth detailed study,

[10] At present, in the General Accounting Office. Next to the War Department, this agency has accumulated the largest quantity of records in Washington.

and a large group of governmental records of the Confederate States of America received from the Department of War.

The judicial branch is represented by records acquired from the District Court of the United States for the District of Columbia, and by smaller, somewhat fragmentary, groups of early records created in federal courts in North Carolina and Ohio. The former group consists of records which were accumulated by circuit, district, and criminal courts which preceded the establishment of the Supreme Court of the District of Columbia in 1863. The covering dates for this group are 1801 to 1863. Records of the former circuit court, although not transferred in their entirety, reflect the unique availability of this court in cases involving federal officers. A final group of judicial records consists of the files of closed cases transferred from the U. S. Court of Claims, covering the years from its establishment in 1855 to 1923.

The majority of records of the United States Senate from 1789 to the end of the 70th Congress in 1929 also have been transferred. Although much of this material has been published, there may be data for the student of public opinion and the legislative process among the numerous unpublished petitions, memorials, and "supporting papers."

Numerous fields of research-interest will occur to the student of political science who examines the descriptions of records in the 1940 edition of the guide. In addition to such familiar materials as the diplomatic correspondence, treaty collections, and other records received from the State Department,[11] he will find records representing activities for which an official report may have had to suffice in the past. A closer historical examination both of the subject-matter fields of federal governance and of administrative methods and techniques is thus made possible. Certain advantages may accrue to the researcher as a result merely of the centralization of records. Boundary lines are easily crossed and patterns of governmental action are more readily discernible. Activities in the field of international affairs, for instance, are reflected in groups of records from every department from which sizable accessions have been received.

A field of study which may profit most from the centralization of records is that of administration itself. Correspondence files of all agencies commonly mirror to some extent the processes of policy formation and determination, relationships with outside groups, between departments, and among officials—both legislative and executive—which give body to

[11] A noteworthy addition to this material consists of records transferred and in process of transfer from diplomatic and consular posts throughout the world, a project which, begun by the State Department in 1930, now contemplates the deposit in The National Archives of all records accumulated at foreign posts prior to August 15, 1912. A list of posts from which such records had been transferred by the end of 1939 will be found in the 1940 edition of the guide.

administration. Students might consider the comparative study of techniques at various periods. The examination of principles in the light of the rise and fall of governmental organizations whose span of life may have been determined in part by administrative practices is a possibility. Case studies might be reconstructed from situations reflected in the records. A more comprehensive type of administrative history than has been written in the past certainly should be considered for particular agencies.

Some limitations should be mentioned. The physical bulk of documentary sources is even now overwhelming, and may in the future demand more emphasis on coöperative research projects. Some record groups also are physically disorganized. Time will be required to reconstitute such bodies of records and to perfect finding mediums, which at present are largely tentative and rudimentary. Most records are workable, however, and together with materials produced by recent government-sponsored efforts to survey and describe state and local public records,[12] the new resources should impart a noteworthy impetus to the study of government.

WAYNE C. GROVER.

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The Next Decade in Political Science Teaching.[1] This paper has been prepared primarily for the purpose of suggesting certain aspects of the teaching problem in political science upon which our attention at this round table may be focused with profit. At the same time, I believe that the issues raised are of more than passing concern and should be considered as among the most important for political scientists during the coming decade. Furthermore, although this round table discussion has been limited to the basic course in political science, I believe that the time has come for appraisal of the entire undergraduate political science curriculum. Such an appraisal should concern itself with the content of our courses (which has been growing like Topsy) and the quality of teaching (which has traditionally been ignored on the ground that the professional educators are alone concerned with teaching methods).

Turning now to the specific subject of this round table, I believe that any discussion of the basic course in political science must concern itself

[12] See Lt. Col. J. M. Scammell, "Local Archives and the Study of Government," *The American Archivist*, Vol. 2, pp. 225–243 (Oct., 1939), describing the work of the Historical Records Survey of the Works Progress Administration. The inventories produced by this project should be of great value to students of comparative local government. See also the *Fifth Annual Report of the Archivist*, pp. 89–91, concerning inventories of field records of the federal government now in process of production.

[1] A paper read before the round table on "Teaching the Basic Course in Political Science" at the annual meeting of the American Political Science Association, Dec., 1940.

with the following questions: (1) the objective of the course; (2) the materials most conducive to the attainment of that objective; (3) the methods most suitable in the organization and presentation of these materials; and (4) the personnel for teaching the basic course. I should like to make certain brief observations in regard to each of these questions.

Objectives of the Basic Course. It seems to me that the basic course has a double task. The bulk of the students enrolled in the basic course are to be trained in the nature of the political process so that they may understand it (thus contributing to their cultural education), and so that they may participate in it (thus contributing to the achievement of a better operating political process in fact). Only a very small minority of the students enrolled in the basic course are likely to proceed to advanced work in graduate schools leading toward teaching, research, or government service. We should never forget which is the larger portion of our student body. The basic course must be critical, but constructively so, and obviously not merely a course for "debunking." It must give a true and complete picture of our political process. Through it, for the last time in most instances, the student will be faced with the elements of the social-political process, and will be brought into contact with the values which are necessary in making practical political judgments. It will be his only chance to come into contact with the scientific approach to political problems, and to discover what is political fact.

Content. In stating the objectives of the basic course, I have by implication already touched upon the content. As I see the problem, during the next decade, at least, it will be that of providing the student with a great deal more of the social setting in which the political process operates. If I am correctly informed, the basic course in most institutions during the last twenty years has been an American Government course. It has been concerned with the mechanics of government, the constitutional framework, with of course something on functions. Many of us have come to realize, however, that the political process can be understood only in its social-economic framework. To understand the operations of government, the student must understand the elements of economics, including the operations of the free enterprise system and its various modifications, the price system, money, credit, etc. He must also understand the social framework, including the place of the family, the voluntary groups in general, income distribution, population trends, urbanism, housing, etc. With this background, he may be prepared to understand or develop standards or criteria by which to judge different forms of government and different operations of government.

I believe that there are two alternatives before us for giving the students this additional material. (1) The most satisfactory is to set up a general introductory social science course which becomes basic for departmental

work in political science, economics, sociology, and anthropology. (I am led to believe that the other social sciences are faced with the same problem that we are in the organization of the basic course.) Then each of these disciplines may assume a background knowledge concerning the social order as a whole. The first purely political science course would then need to be organized on a more advanced level, and I would still avoid placing too much emphasis on pure mechanics, but should focus upon the more particularly governmental problems which arise in modern society, such as the larger processes of adjustment, compromise, administration, political leadership, the organization of violence and the organization of consent, the basic power relationships in society, and some of the more recent psychological approaches to an understanding of the political processes. (2) The other alternative is to reorganize the basic political science course sufficiently so that in it the student will get the basic framework of society. This is far less satisfactory, but may be necessary at institutions where a basic social science course cannot be set up.

Methodology. Concerning methods of teaching, I should like to say very little. Methods are as numerous as the persons doing the teaching. We all know that it is our task to stimulate thought in the student and to get a maximum participation by the student in the making of analyses; an increasing number of us realize the very limited value of lectures in ordinary classroom instruction; we know the value of paper-writing, of field trips, of collateral reading in biographies, newspapers, etc. How these things can be best used depends upon each instructor and upon the curriculum of each institution. However, I think our profession would profit from a more extensive exchange of ideas concerning methods of teaching, and I hope that this question will receive considerably more attention in the future.

The Personnel of Teaching. But I should like to say somewhat more concerning the training of teachers who can teach the basic political science course. This is central to any discussion of the basic course, because not anyone and everyone can teach this course. How many of the teachers of the basic course in political science have been trained for this particular job? Is it not true that graduate training has been conducted largely on the assumption that most graduate students will be research students? Just as in college work attention has been focused upon the minority who may become graduate students, so in graduate work attention seems to have been focused upon the minority who will engage in research. This is altogether desirable in terms of producing the best in research work, but what of its effects upon the teaching personnel of our high schools, junior colleges, colleges, and universities? The problem is, of course, an immensely complicated one, and I should like simply to enumerate those aspects of the teachers' problem which seem to me to require special attention if the basic course in political science is to perform its task.

1. Tests or standards need to be devised on the basis of which graduate students are regularly weeded out, to get rid of those who cannot do either high-grade research or first-class teaching. Those who are, or promise to be, excellent researchers, but who cannot teach, should be kept out of teaching. If our *teaching* is to be improved, we need to protect our classrooms not only against those who cannot make good elsewhere and are looking for a safe nook within the seclusion of academic walls, but also against the influx of individuals who are looking for an assured income while they concentrate their attention upon research problems. This is not an attack upon those whose interest lies primarily in research, but merely a plea that unless they are prepared to train themselves in teaching and give their classes full attention, they should not be permitted to teach this basic course in political science.

2. Prospective teachers of political science basic courses need to have a broader training in the related social sciences in order that they may have an understanding of the whole social process of which government is only a part. In short, the training needs to be broader than it traditionally has been.

3. The prospective teacher of the beginning political science course needs a minimum of training in curricular problems at the college level in order better to participate in this part of college work, and in order better to understand the relation between the political science courses and other subjects in the program of study.

4. Means must be found whereby beginning teachers may profit from the experience of successful predecessors or senior colleagues in teaching. This means that we must develop something in the nature of apprenticeships or supervision of teaching.

5. Last, but certainly not least, if the basic course in political science is to meet the specifications suggested above, those who are responsible for it must secure recognition in prestige and in salaries. Faculty members who spend time and energy upon their primary function of teaching are entitled to the identical recognition awarded to research experts. Until this recognition is forthcoming, we cannot expect men to take the teaching job as seriously as our students expect it to be taken, and as it must be taken if our society is to be built on a firm educational foundation.

WALTER H. C. LAVES.

University of Chicago.

Value to Students of Courses in Public Administration.[1] Dear Professor ———: I cannot at this moment lay my hand on your original letter to Dr. Moulton [president of the Brookings Institution], but as I

[1] A letter written in response to an inquiry from the head of a department of political science.

recall it you expressed your desire to give in the department of political science courses which would prove of value to your students. You were particularly considering extending the work in public administration.

I have at one time or another given a good bit of thought to the question of value of courses in political science, and it seems to me we should consider three types of values: (1) cultural, (2) civic, and (3) vocational.

Cultural value, I should say, lies in giving the students a broad understanding of the world in which they live. Cultural courses lay a foundation upon which they may build as they go on through life. Such courses in political science should enable them, after formal school days are over, to follow developments, to understand, evaluate, and digest the more worthwhile news reports, magazine articles, and books that appear, and to grow in knowledge and, we hope, in wisdom.

Cultural objectives, it seems to me, would dictate broad, basic, even elementary, coverage of the whole field of political science and would interdict much specialization on public administration. I am dubious myself as to any high degree of specialization in any field in the first two years of college, or in junior college, because I think those two years should be devoted to laying a pretty broad general foundation in many fields. In the upper two years, or in senior college, I personally prefer, for those students whose interest lies in the social sciences and who are seeking cultural education, broad coverage of the general field of the social sciences rather than high concentration in any particular branch of that field, such as political science, economics, or sociology. A combination of economics and political science, a return to the old concept of political economy, with some sociology and psychology, seems to me to be growing in favor.

I would not rule out public administration as a cultural course for students in a senior college, or the inclusion of public administration in some of the orienting courses in junior college. Government administration plays so large a part in our world that I think we need to understand it, although I think we ought to understand it in its relationship to functions and activities of government and not as an abstraction.

If the objective is training for citizenship, I should say that we can make a stronger case for the social sciences in general and for political science in particular, although I would suggest that teaching to give understanding of economic and social problems should not be excluded to permit of high concentration on political science. In training for citizenship, I do not see the wisdom of high specialization on public administration.

This may be the point at which I should say that most of the books and courses in general public administration—as distinguished from administration in special functional fields such as education, social welfare, public health, police, and so on—seem to me to have as their primary objective

training for citizenship. Since the turn of the century, public spirited citizens have been concerned with major reforms in the public administrative organization and procedure. Thus we have the movement for budgetary reform and improved financial administration; the development of the strong executive and the facilitating of overhead management; the short ballot; the integration of administrative agencies and the elimination of overlapping and duplication; the development of the merit system as a positive factor in good government; the introduction of scientific and more or less centralized purchasing; and the improvement of administrative law and procedures. All these matters are of primary importance to the citizen interested in securing economical and efficient administration.

I think it noteworthy that the basic studies in public administration, upon which most of our general books on the subject and the courses as at present given are based, have been made, in the main, not by men and women engaged in the everyday work of government but by special students of government in research agencies and the universities. Although at times their activities may have been financed by governments, the surveyors have been, as a rule, only temporary or part-time government people, moving either from one government to another, or from university or research agency to government and back again as situations change. Generally they take the public spirited citizen's point of view, and are studying the overhead aspects of administration much more than the detailed functions and activities of government.

Now let us look at the vocational value of courses in political science in general and public administration in particular.

Political scientists in the main are studying government in its various aspects. They may be watching and studying intently the work of government employees from certain broad points of view, but they are not doing the work of government. I have studied a few governments fairly intensively, and I have read a good many studies made by other people. Rarely does one find a public employee hired to study government or public administration in general; the overwhelming mass of government employees are engaged in carrying on a specific function or activity of government and are performing duties that do not demand a great knowledge of government in the large or of general overhead public administration in particular.

When we consider vocations, it is necessary to consult the statistics regarding public positions. In working with statistics of public employees, it is little short of amazing how rapidly one can dispose of most of the grand total by striking off the big categories. Thus, if you start with, say, three and a half million public employees, you can dispose of a million or so by subtracting the teachers and other professional workers in the public educational institutions. If you take the total employees of a municipal-

ity, you will not have many left after you have subtracted teachers, firemen, policemen, street-cleaners, public works employees, and welfare workers; and many of your remainder will be clerical workers. A state government gives pretty much the same result; three state departments may vie for first place—education, highways, and welfare, including institutions. Public health may be of fair size. Banking, insurance, public service commissions, labor, conservation, and agriculture have never been large in the states I have studied. Revenue and the automobile registering and licensing agency may be fairly sizable because of the amount of clerical work involved. In the states where I have worked, the county agents and the home demonstration agents—two fairly numerous groups—tie into the land-grant college and not into the state agricultural department, whose most numerous employees are generally inspectors of one kind or another. All governments seem to have large staffs of inspectors, many of whom do not have to be university trained.

In the federal service, one subtraction, that of the postal service, reduces the total of civilian employees by about 30 per cent. Far-flung national services like internal revenue, customs, immigration, meat inspection, the Forest Service, the Indian Service, etc., account for thousands at a clip. Here in Washington, moreover, in the neighborhood of 60 per cent of the employees are doing clerical work of one kind or another.

If the universities are to train for the public service with a distinctly vocational objective and with the expectation of placing their graduates in the public service, they will train them to do the work which the government has to do and they will keep in mind demand and supply. Consciously or unconsciously, the universities have been doing that for generations. Teaching has been a leading occupation for graduates of higher educational institutions, and educational facilities have been developed to train teachers for the public service. The law schools man the legal positions; the engineering schools, the engineering positions; the schools of forestry, the Forest Service and the state forestry departments; the schools of veterinary medicine, the Bureau of Animal Industry and the veterinary positions in the experiment stations; the schools of social work, the professional social welfare positions; and schools of agriculture, many of the scientific and professional positions in the great Department of Agriculture, the state experiment stations, and state departments of agriculture, and the positions of county agent and home demonstration agent in the counties. Scientific departments of the universities and the technical schools supply the scientific positions in both the natural and the social sciences.

Looking at the subject from the standpoint of vocational education and placement, I have never been able to find a large demand for persons university trained for general public administration unless that training is

combined with training in another field of civilian competence. The number of public positions in overhead administrative and supply agencies is relatively small. Occasionally, when public services increase by leaps and bounds because of some emergency or the assumption by the government of new functions and activities, there is for a brief period a very brisk temporary demand, which may create an erroneous impression. After the initial vacancies have been filled, the demand drops off to replacements; and since the average age of the original appointees to new positions is generally comparatively low, the need for replacements may prove exceptionally small for some years. If, moreover, a new service has a heavy initial load, it naturally takes on a great many employees—more, in fact, than will be needed when systems and procedures are perfected and the employees become thoroughly familiar with their duties. Then there may be actual reductions in force unless expanding volume enables the agency to absorb its own surplus. In thinking of vocational education and placement, therefore, one has to consider long-time trends rather than momentary situations.

In advising university students who are interested in careers in the public service, I ordinarily recommend securing thorough basic training in some one of the fields of civilian competence for which the demand is fairly wide; and I ordinarily suggest giving preference to one in which no one government, or even government in general, is a monopolistic employer. Vocationally, the student is better off if he can offer his services in a competitive market. I do not like to advise a student to take narrow and highly specialized courses for a particular class of public positions unless the number of such positions is so great, as it is in teaching, that a position of some kind will probably be available. I do not advise against any courses in general public administration—quite the contrary. I customarily recommend taking one or two if no specialized courses are available covering administration in the particular field of civilian competence in which the student is interested. I do not recommend concentration in general public administration, especially if that interferes with acquiring competence in some other field. I always stress the value of tool courses which develop skills needed in many government positions, and I mention specifically courses in English composition, elementary statistics (particularly administrative statistics), and accounting.

I should caution you, as I caution students who talk with me, that my point of view is in a sense subjective. I personally have never enjoyed administrative work in and of itself; I have thoroughly enjoyed doing it as a means of attaining objectives that have roused my interest and enthusiasm. I have found administrative work in and of itself stimulating and absorbing only when an agency or a project is being built and launched or is being radically reorganized. I must confess that the routine operation

of a going concern makes no appeal to me unless my interest and enthusiasm are in the purpose that agency is serving. I know a good many men and women in the public service who share this point of view. They find their special field of civilian competence their major, public administration, a minor.

Such people note that a person trained primarily in general public administration without any other field of civilian competence, if he finds an opening resulting directly from his special training, is likely to land in an overhead staff agency or in an auxiliary branch of a line agency. He may be in a budget bureau, an accounting office, a central personnel agency, or a central purchasing agency, or in the corresponding auxiliary branches of a line agency. His major concern becomes the processes incidental to the housekeeping functions of government. He is a facilitator of other persons' work, or a controller of their work on the business side. As I look at such positions, success in them seems to turn on possession of administrative skills and on mastery of the controlling statutes and the business practices and procedures. Many such positions do not demand a rich cultural background, familiarity with the heritage from the past, or vision in opening up new fields of usefulness and advancing of a science or a profession. The brilliant student from the university with vision and imagination who gets a housekeeping job may find the repetitive nature of his tasks boring, and he may get few outlets for creative work. He may envy a fellow-worker in the agency who has administrative skills to a marked degree but only a high school plus elementary business school education. Such an employee may derive complete satisfaction in the success of his work. In fact, in several of the overhead and auxiliary services, if one judges by employees who have done meritorious work, it is extremely difficult to prove that college training is essential. Persons who have worked up from clerical positions because of their administrative skills and their mastery of laws, regulations, and procedures may outstrip the university-trained man because they find their work stimulating and satisfying.

Positions which absolutely require professional, technical, or scientific training in colleges, universities, or professional schools offer far more scope to the brilliant graduate. He may continue in his special field of competence, becoming more and more proficient in it, or if he possesses administrative skills he may move up the administrative ladder, utilizing both his specialized knowledge and his administrative skills. He finds himself participating in policy formulation involving the substantive work of government rather than government housekeeping. In formulating public opinion and in developing the services and activities of government, the real leaders are generally not the general administrators, but the ranking men and women in the substantive fields. They are recognized as leaders within their professional groups, and often have a large following through-

out the country. Incidentally, they may be leaders in administration as well as leaders in their respective fields, as has been so ably demonstrated in the past few years in Washington by F. A. Silcox, Chief Forester, whose recent death was so great a loss to the national service.

As I was writing this morning, I had a call from a recognized leader in one profession who is also an able public administrator with marked proficiency in personnel administration. He was concerned lest personnel technicians without knowledge and understanding of his special professional field force compliance with a preconceived, standardized fixed pattern. Adoption of a fixed pattern would, in his judgment, preclude experimentation and possibly retard the development of a personnel system better adapted to the advancement of the public agencies concerned with his profession. The assumption that general personnel administration can be taught successfully without reference to substantive fields has not yet been proved from a vocational and operating standpoint. It seems to me already demonstrated that much more is needed in personnel than knowledge of personnel techniques.

You will gather from this letter that if I were in your place I should hesitate a long time before I tried to make the department of political science vocational. I should say that the primary objective of the department should be cultural, that its secondary objective, closely related in my judgment, should be training for citizenship, and that only in a minor degree can it be successfully vocational. Although a course or two in public administration serves well both culture and training for citizenship, it would, I think, be a mistake to expand public administration at the expense of your other courses in political science. The objective should be, I think, to lay a broad foundation for your students, so that they will understand the world in which they live and participate intelligently in democratic government.

From the vocational standpoint, I should be inclined to think of the courses in public administration in the department of political science as courses which might prove helpful and broadening to men from other departments who are considering entering the public service in professional fields. Vocationally, I think public administration is a minor for the bulk of government positions that demand university training.

Very sincerely yours,
LEWIS MERIAM.

Institute for Government Research,
The Brookings Institution,
February 3, 1940.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

The committee on program (Professor W. Brooke Graves, chairman) for the thirty-sixth annual meeting of the American Political Science Association announces the following additions since the publication of a preliminary draft of the program in the June issue of the REVIEW: (1) both the large section meeting and the follow-up round-table on European affairs will be in charge of Professor Harold Zink, of DePauw University; (2) a round-table on judicial administration, in charge of Professor J. A. C. Grant, of the University of California at Los Angeles, has been added. The building of the program has been so handled that there will be adequate opportunity for the consideration of the many new developments that have been taking place in recent weeks, both at home and abroad. With full approval of the officers of the Association, the program committee has adopted with regard to this year's program a policy of restricting members (except chairmen of meetings holding two sessions) to one formal appearance. It is felt that, with an increasing membership, more persons may, in this way, have an opportunity to participate in at least one session. The coöperation of members and chairmen of meetings in carrying out this policy is solicited. All sessions will be held at the Palmer House in Chicago, which will be headquarters throughout the meeting. The Association of American Law Schools and the American Association of University Professors will be meeting in Chicago at the same time, as well as the American Society for Public Administration.

Circumstances permitting, Mr. Hugo von Haan, a former member of the staff of the International Labor Office, will offer a series of lectures at the University of Chicago during the present academic year on comparative public administration.

Professor H. C. Nixon, formerly of Tulane University and more recently of the University of Missouri, has been appointed lecturer in social science in the department of political science at Vanderbilt University.

At Ohio State University, Dr. F. R. Aumann has been advanced to a full professorship.

During the past summer, Professor Jacob Van der Zee, of the State University of Iowa, gave courses in international relations and political theory at the University of Colorado.

At the University of California at Los Angeles, Dr. J. A. C. Grant,

chairman of the department of political science, has been promoted to a full professorship and Dr. Winston W. Crouch to an assistant professorship.

Mr. Edward G. Lewis, lecturer last year at the University of California at Los Angeles, has been appointed instructor in political science at the University of Idaho.

Professor Harold F. Gosnell, of the University of Chicago, spent half of August and all of September as research consultant for the U. S. Bureau of the Budget, Division of Statistical Standards.

At the University of California, Mr. L. Deming Tilton is conducting a seminar on federal, state, and local planning.

The University of California announces the appointment of Messrs. Hilton P. Goss, Delevan P. Evans, and Thomas C. Warren to positions at Washington State College, the University of Texas, and Santa Barbara College, respectively.

Dr. Jack T. Johnson has been appointed to an instructorship in the department of political science at the State University of Iowa.

At the Catholic University of America, Dr. Robert H. Connery has been advanced to an associate professorship of politics, and Dr. John L. McMahon to an assistant professorship.

Dr. Wilson L. Godshall has accepted an assistant professorship of social studies at Lehigh University.

While on leave from the University of Southern California, Professor Carlton Rodee is spending the year in research in Washington, D. C.

Miss Marie Louise Degen has been appointed to a position on the social science staff of Stephens College, Columbia, Missouri.

Professor Cullen B. Gosnell, of Emory University, is serving as a member of a local government commission created early this year by the Fulton county (Georgia) grand jury. The commission is expected to follow up the Reed report on Atlanta and Fulton county and to make recommendations for further reorganization in a report to be submitted on or near January 1.

Mr. H. Valder, of Hamilton, New Zealand, has endowed for five years a research fellowship in social relationships in industry at Victoria College, Wellington, New Zealand. The stipend is £1,000 a year, the appointment is for five years, and applications close on November 30, 1940.

On August 12–16, Baylor University conducted a citizenship institute

for young people of high school age. More than 1,400 students were registered, and in the opinion of the local department of political science, the experiment was highly successful.

Dr. Paul S. Jacobsen, of Colgate University, has been advanced to an associate professorship. During the past five years he has directed the Colgate-Washington study group, composed of some ten students carrying on an observational study of governmental operations during the first semester of each academic year.

Dr. Spencer D. Albright, who taught at the Texas Technological College last year, is conducting courses in American government and public administration at Reed College during the first semester of 1940–41.

During the second term of the 1940 summer session, Professor Kenneth C. Cole, of the University of Washington, taught at the University of Minnesota, rather than Professor Taylor Cole, as erroneously stated in the August issue of the REVIEW.

Dr. Lucretia Ilsley has been appointed assistant professor of political science at the Florida State College for Women at Tallahassee.

At the Illinois Institute of Technology, recently created through the merger of Armour Institute of Technology and Lewis Institute, Professor John Day Larkin has been made head of the departments of history, political science, and sociology.

After a year's research in Scandinavia and other Baltic countries as post-doctoral fellow of the Social Science Research Council, Professor Eric Bellquist has returned to his position at the University of California.

In order to return to his post with the Foundation for the Advancement of the Social Sciences at the University of Denver, Dr. Ben M. Cherrington has resigned as chief of the Division of Cultural Relations, Department of State, with which, however, he will retain connection as a member of the Division's general advisory committee.

At the State University of Iowa, Professor Kirk H. Porter, for twenty-one years a member of the political science staff, has been made head of the political science department, in succession to the late Professor B. F. Shambaugh. Professor J. E. Briggs has succeeded Professor Shambaugh as editor of the publications of the State Historical Society.

An interdepartmental seminar offered by the departments of political science, history, economics, and sociology was instituted at the State University of Iowa this autumn. It offers an interesting experiment, on the graduate level, in bringing the social studies into closer relations.

Professor Fernando de los Rios, of the New School for Social Research, was a member of the summer session faculty at the University of California, offering courses on "The Present Crisis in the Theory of the State" and "The Social, Cultural, and Political Influence of Spain on the Americas."

At the University of Chicago, the duties of the chairman of the political science department have been assigned to a committee consisting of Professors Leonard D. White, chairman, Quincy Wright, and Simeon E. Leland. Professor Charles E. Merriam, who became professor emeritus in June, is offering at Chicago a seminar in American democracy during the autumn quarter, and will also give the Godkin lectures at Harvard University. During the second semester, he will be in residence at Harvard University.

The department of political science at the University of Chicago announces that Dr. Claude E. Hawley has accepted an instructorship at the University of Florida; that Mr. Avery Leiserson has been appointed to the staff of the School of Public Affairs at Princeton University, with the rank of instructor; that Mr. Norman Pearson, who has been conducting a study of fiscal practices in the federal government with the assistance of a Social Science Research Council pre-doctoral fellowship, has been appointed to the staff of the Office of Budget and Finance in the Department of Agriculture; that Mr. Karl A. Bosworth has accepted an appointment to the research staff of the Bureau of Public Administration at the University of Alabama, with the rank of instructor; and that Mr. Maure Goldschmidt has been reappointed to the teaching staff of the undergraduate social science courses at the University of Chicago.

After a year in Washington, Professor Howard White has resumed his regular work at Miami University. A vacancy created by the resignation of Dr. Louis E. Frechtling to accept a Rockefeller Foundation fellowship has been filled by the appointment, as instructor, of Mr. Willard C. Matthias, formerly of the Brookings Institution and also a Littauer fellow at Harvard University.

Professor Raymond G. McKelvey, of Occidental College, is serving as chairman of a sub-committee on administrative reorganization in connection with Mayor Bowron's citizens' committee to study revision of the city charter of Los Angeles. The work is expected to be completed by December, so that proposals may be submitted to the voters at the spring municipal election.

Mr. Lewis B. Sims, technical assistant to the chief statistician in the Census Bureau's division of state and local government, has been made

acting assistant chief statistician, succeeding Dr. E. R. Gray, who has been made chief of the printing and publications division. The loan of Mr. Sims' services to the President's Committee on Civil Service Improvement was terminated in May upon the completion of his report on "The Scholarship of Junior Professional Appointees in the Government Service."

At Butler University, President D. S. Robinson and Dr. Roy M. Robbins, head of the department of history and political science, have announced a new program in citizenship. All sophomores will be required to enroll in a year course in American government and citizenship, which will emphasize the development and character of political institutions as well as the rights, duties, and privileges of citizens. Dr. Franklin L. Burdette, formerly of Princeton University, has been appointed assistant professor and director of the course. Other members of the staff are Professor Warren R. Isom, Dr. Albert R. Highley, formerly of Rutgers University, and Dr. David M. Silver, recently of the University of Illinois.

Under the directorship of Professor Malbone W. Graham, an Institute of Latin American Affairs was held at the University of California at Los Angeles on August 1–2. The program was built around the two themes of "finding common ground" and "taking common action," and was participated in by numerous scholars and publicists of the Pacific Coast area and of Latin America.

The twenty-ninth conference of the Governmental Research Association was held at the Princeton Inn, Princeton, New Jersey, September 4–7.

The American Bar Association's special committee on the bill of rights has launched a new quarterly, *The Bill of Rights Review*, whose first number appeared during the past summer. The editor is Professor John E. Mulder, of the University of Pennsylvania Law School, and the publication office is at 31 Nassau St., New York City, with the subscription price fixed at one dollar a year.

The fifth annual conference on current governmental problems to be held at Massachusetts State College November 15–16 will be devoted to the general subject of local government in Massachusetts. Professor Charles J. Rohr is executive secretary.

The second annual Institute of Government at the University of Omaha, under the direction of Professor Shepherd L. Witman, of the University of Omaha, and sponsored by the Carnegie Endowment for International Peace, the Omaha Junior Chamber of Commerce, and the University of Omaha, held its first session during the period September 16–20 and will hold a second during February 19–21. The general topic

for the year is "Is the Security of Americans Really in Danger?," and the February session will concentrate especially on "Security in the Midwest." Among participants in the program are Walter H. C. Laves, University of Chicago; Cornelis deKiewiet, State University of Iowa; A. Drummond Jones, U. S. Department of Agriculture; and Wallace McClure, U. S. Department of State.

Professor William Anderson, chairman of the Committee on Endowment of the American Political Science Association, requests members of the Association to send to the office of the Secretary-Treasurer, 105 Harris Hall, Evanston, Illinois, the names and addresses of persons who might be interested in making a contribution or bequest to the Permanent Endowment Fund. A communication from the Committee will be sent to all persons thus named. If a member desires to have his name used in this communication, he should indicate the fact; otherwise, all letters will be signed by the chairman of the Committee on Endowment without reference to the proposer's name. It is hoped that many persons not already on the list of the Committee on Endowment may be approached by this means.

BOOK REVIEWS AND NOTICES

The Plans of Men. By Leonard W. Doob. (New Haven: Yale University Press. 1940. Pp. xiii, 411. $3.00.)

This volume consists of four parts: Part 1, "Introduction," dealing with the nature of planning; Part 2, "Activity," including biological, social, political, economic, and, that nothing might be overlooked, human activity; Part 3, "Planning"—individual, social, economic, political, and regional; and Part 4, "Perplexing Problems."

The writer is primarily a laboratory psychologist, with some practical experience in the T.V.A. and now a member of the Yale Institute of Human Relations. He believes that social science should assist men in planning their lives and constructing plans which promote human welfare. He is concerned with "socially oriented research" in general, and concretely, with "the significance of regional planning" in the United States.

He adheres to the view that there has not been, and perhaps never can be, "an objective science in politics or law." For the political scientist particularly, Dr. Doob finds a great many difficulties. If he deals with what has been, the political scientist is an historian. If he deals with the present, he is a sociologist or economist. If he deals with the future, he is apparently a prophet. In sum: "Political science evidently is one of the borderline disciplines which tries so hard to retain its independent integrity while finding it futile to do so." But one may question whether these "borderlines" are not the areas of scientific life and growth.

In the statement of his own views on political planning, however, the author was able to reach some very dogmatic, although dubious, conclusions. He finds, for example, that the difference between democracy and dictatorship is a basic classification, "sociologically and psychologically." He does not seem concerned with the historic fact that dictatorship is historically a democratic institution. The real distinction is that between democracy and despotism—between responsible democratic types of political association and irresponsible despotic types.

The author's curiosity has not led him far into the great field of administrative management, so closely tied up with the theory and practice of planning, and consequently this significant side of the inquiry remains almost a total blank. Dr. Doob is interested in types of decentralization, however, and as a result of his experience in the T.V.A. undoubtedly, in regional planning. The hope of the future lies, he asserts, in some kind of "regionalism" which he does not define very sharply. In his mind, it stands out, chiefly, as the antithesis of "master planning."

The area falling most nearly within the author's area of special com-

petence is the psychology, or social psychology, underlying planning. The writer's contribution to this subject is contained chiefly in a sketchy chapter dealing with human activity—drives, sex, psychiatry, gratification, frustration and aggression, social control of aggression, the art of prediction are all discussed. At the conclusion of the study the writer deals with the planning personality, described in terms that are not very convincing.

This volume and its conclusion contain a mass of material from which useful grains may be garnered with sufficient patience. But it falls between two stools. The writer does not use the techniques of psychology in which he was trained and with which he is familiar, and on the other hand, he is not enough at home in dealing with the techniques of economics and government to function effectively there. The result is that, notwithstanding the industry of the author, the study is of limited usefulness either to a social psychologist or to a student of government.

CHARLES E. MERRIAM.

University of Chicago.

Constitutionalism, Ancient and Modern. BY CHARLES HOWARD MCILWAIN. (Ithaca: Cornell University Press. 1940. Pp. 162. $2.50.)

This slender volume constitutes an important contribution to the crucial issue of political organization which, in the author's happily formulated antithesis, is "the struggle between will and law." (Will is arbitrary power without constitutional limitations, while law is awareness and recognition of fundamental principles and institutions as rights.) The struggle is mirrored throughout the book in terms of the medieval distinction between *gubernaculum* and *jurisdictio*, the former being the power to rule attributed as of right to the ruler, while the latter circumscribes the limitations of discretionary power by law. Seen under a more technical angle, the two spheres of state action are "the difference between administrative enactment and a definition of rights" (pp. 88–89).

As the second *leitmotif* in the author's discussion appears the continued tradition of Roman republican conceptions, in that *lex*, as the highest form in the Roman hierarchy of legal enactments, never ceases to derive its validity from popular resolve, originating historically from the *Comitia Curiata*. This fundamental fact of what leading German Romanists (Wlassak; Kipp) call *Rechtsquellentheorie* breaks through even the absolutist notions seemingly . . . enshrined in the Justinian codification. In the famous sentence *Quod principi placuit legis habet vigorem, lex* undoubtedly meant a formal statutory enactment of the popular assemblies of republican ancestry, retained as supreme measurement long after the actual disappearance of the *Comitia* as a practical institution.

The importance of the book lies in the fact that constitutionalism, though overshadowed and obscured over long stretches of history, has never been wholly extinct, once its foundations had been laid by ancient

legal thought and institutionalization. The two streams are the tradition of Roman law and the English constitutional heritage from the thirteenth century onwards. The reviewer submits that the missing link between the two sources of constitutionalism are the Glossators and Azo, whose influence on Bracton is well established. One might add that in the light shed by Beyerle and v. Keller on the city charters of the high Middle Ages the tradition of free institutions and civic rights was translated even into the practice of social life.

In linking the fundamentals of constitutional government with the right of resistance and judicial review, Chapter I presents the distinction between the "sociological" constitution as a set of principles embodied in the institutions of a nation and the more rationally conceived notion of a constitutional order as a constitution proper. "All constitutional government is by definition limited" (p. 23). In Chapters II ("The Ancient Conception of a Constitution") and III ("The Constitutionalism of Rome and Its Influence"), these notions are followed through Greek political philosophy and Roman constitutional jurisprudence.

In Chapter IV ("Constitutionalism in the Middle Ages"), the uninterrupted trend of constitutional consciousness is demonstrated convincingly by an analysis of Bracton in the environment of English common law and royal prerogative. One may be permitted, however, to disagree with the learned author on an important point. On p. 72 ff., Professor McIlwain compares Bracton's gloss with Ulpian's quotation in *Dig.* I, 4, 1: *Quod principi placuit legis habet vigorem, cum lege regia, quae de imperio eius lata est, populus ei et in eum omne suum imperium et potestatem conferat.* In this sentence, the word "*cum*" stands for "*quum*," meaning "because" or "whereas." This is evident by the insertion of the word "*utpote*" between "*vigorem*" and "*cum*" in Ulpian's original statement. ("*Utpote*" is given in *Dig.* I, 4, 1 in the authoritative edition by Paul Krüger, Berlin, 1908, p. 35, while it is omitted in the otherwise identical quotation from Ulpian in *Inst.* I, 2, 6). Moreover, "*utpote cum*" governs the conjunctive ("*conferat*"), which would be unintelligible if "*cum*" had been used as a preposition governing the ablative and meaning, in Professor McIlwain's exposition, "together" or "with" the *lex regia.* The ablative is to be translated as "by, or through, the *lex regia.*" If this grammatical interpretation is correct, the conclusion is justified that both Ulpian and Bracton, with equal emphasis, gave expression to what was implicit in the Justinian codification, namely, the continued consciousness of Ulpian, and other imperial jurisconsults as well, of the unbroken republican tradition concerning the hierarchy of legal enactments. Both were equally aware of the constitutional implications of the statement.

Chapter V ("The Transition from Medieval to Modern") is most illuminating because of the subterranean tradition of constitutionalism even in the period of what is styled Tudor absolutism, with its prevailing theory

of unlimited obedience to royal authority. "The line so clearly drawn by Bracton between *jurisdictio* and *gubernaculum* in the thirteenth century still remains at the end of the sixteenth the main clue to the riddle of the English constitution" (p. 113). Hereafter the story of constitutional government is familiar, and the author touches only in passing on Calvinist theory and the French tradition of the *lois fondamentales du royaume*. It could have been supplemented by the doctrines of the *Fronde* coincident with the victory of the *parlement* over the crown and of the *remonstrances* of the *parlements* down to the French Revolution. But Wentworth and Coke stood firmly on the shoulders of a lasting and never wholly obliterate constitutional consciousness.

In the last chapter ("Modern Constitutionalism and Its Problems") is explained how the tradition of freedom from arbitrary exercise of royal power was finally capped by sanctions the absence of which characterizes absolutism in all times. Since constitutional history is "the record of oscillations" (p. 139), it is evident that reconciliation between the two principles of *raison d'état* and legal powers, emerging again in the centralized structure of the nation-state, can be found only in a proper concept and practical application of political balances. Here the reviewer begs to disagree with the thesis of the author that the political balances are a "figment of the imagination of eighteenth-century doctrinaires" and of "the closet philosopher Montesquieu." Constitutional history could well be written as the continuous effort to establish a functional equilibrium among the constituted powers within the state, as shown by Greek theory, Roman institutions, and even the social structure of feudalism. Certainly the mechanistic tendencies of Descartes and Newton influenced the concept of political balances in the seventeenth and eighteenth centuries; but they are an old instrumentality of constitutionalism. Complete reconciliation of political power and political responsibility, however, seems an effort to square the circle now as ever before.

These sketchy remarks on some of the thought processes of Professor McIlwain's book cannot convey a proper idea of the richness of its texture and the subtleness of the thought patterns woven into it. To the reviewer, it seems one of the most important contributions of recent years to intellectual history. Through its emphasis on the endurance of constitutional tradition, even in eclipse, it brings a real message to the power-ridden world of today.

KARL LOEWENSTEIN.
Amherst College.

Mobilizing Civilian America. By HAROLD J. TOBIN AND PERCY W. BIDWELL. With a Foreword by General Frank R. McCoy. (New York: The Council on Foreign Relations. 1940. Pp. xi, 276. $2.75.)

How may the national government so supervise American industry as

to satisfy both civilian needs and the enormous demands for military and naval equipment arising out of participation in a modern war? *Mobilizing Civilian America* seeks to provide a partial answer to this query by surveying numerous schemes for federal control of industry. Among the methods so analyzed are price-fixing, government operation of railroads, threats to commandeer plants and conscript striking labor, and systems of priorities designed to provide essential munitions works with adequate supplies. These and other instruments of official control are examined as to their usefulness during the World War, as to the attitude taken toward them since that war in various editions of the Industrial Mobilization Plan prepared by the Army and Navy, and as to the influence of New Deal and other late developments on their effectiveness. By covering the evolution of certain key administrative devices from 1914 to 1939, the volume serves as a useful reference work for those seeking a compact account of the background for current national defense plans.

In presenting the foregoing material, Tobin and Bidwell operate as impartial reporters of statutes, plans, statistics, and opinions published by others. They canvass the field of inquiry, but do not undertake to fill the serious gaps in current thinking by original, penetrating, and comprehensive opinions of their own. This perfectly legitimate policy nevertheless prevents completeness and greatness in dealing with the pressing problems of defense. Can a list of mechanized equipment be prepared effectively, and its production assigned efficiently when the foreign policy makers of the United States have not made up their minds as to whether the armed forces are to be committed to fight air engagements over the jungles of South America, naval battles off the shores of Asia, or a total war on Canadian soil? What is to be done about the confusion and delay that would inevitably arise were a whole set of emergency war agencies created alongside the medley of New Deal offices already in existence? What consideration should be given to the rights of labor when strikes mean less ammunition moving to the front? *Mobilizing Civilian America* does not squarely face these and certain other prime issues. The volume, therefore, may be classed as a useful reference work rather than as a comprehensive and original contribution to thought about war economy.

WILLIAM BEARD.

University of Wisconsin.

Aliens and the Law. By WILLIAM MARION GIBSON. (Chapel Hill: University of North Carolina Press. 1940. Pp. xv, 200. $3.00.)

Current developments affecting the legal rights of aliens enhance the interest in this "inquiry into the extent to which aliens are accorded national treatment by virtue of American municipal law." The discussion is restricted to those rights that have given rise to extensive litigation under

the municipal law of the United States. In one chapter, the provisions of treaties that accord aliens "national treatment" are analyzed under the following heads: personal rights or privileges; ships and goods. An appendix contains a detailed tabulation of the sections of each treaty affecting each of the several rights and privileges of aliens. Other chapters analyze the statutes and leading judicial decisions on the property rights of aliens; on treatment of aliens in the matter of taxation; on aliens' right to work; and on aliens in American courts. Appendix tabulations serve as a guide to provisions of relevant state statutes.

In the introductory and concluding chapters, Dr. Gibson relates the data on aliens' rights under municipal law to these rights under customary international law. He concludes that the alien enjoys a latitude of protection under American municipal law broader than the minimum fixed by customary international law. Moreover, he finds that treaties "add very little if anything to that which foreigners have by virtue of municipal law in this country" (p. 156). A tenor of unreality pervades the discussion of aliens' rights under customary international law: "international law sits in judgment of the state's action" (p. 3); "international delinquency for which the delinquent state must make reparation" (p. 3); "minimum standard of treatment demanded by international law" (p. 3). Furthermore, the author feels "reasonably assured" that the departures of the totalitarian states from "international law" on the rights of aliens are aberrations "of a more or less temporary nature" (p. 159). He doubts that the 1933 Pan American convention, in which the United States accepted the principle of national treatment, can stand in the face of the "opposition" of an "impressive and well-established body" of customary international law that requires in some situations better than national treatment of aliens. The minor excursions into the dream-world of the international lawyer, however, do not detract from the merits of the volume as a systematic analysis of the more important parts of our municipal law concerning aliens.

LUELLA GETTYS.

Baltimore, Maryland.

City Manager Government in the United States; A Review After Twenty-five Years. By HAROLD A. STONE, DON K. PRICE, AND KATHRYN H. STONE. (Chicago: Public Administration Service. 1940. Pp. xv, 279. $2.50.)

In 1937, the Committee on Public Administration of the Social Science Research Council launched a study on a nation-wide basis of the results and practical operation of the city-manager form of government. This structure of municipal government had then been in effect in several cities for more than twenty-five years, and in many more for over twenty years.

In December, 1939, there were 472 cities in the United States alone under this governance.

The authors of this book visited and studied eighteen carefully chosen and representative communities which had long experience with the plan. In addition, thirty-two cities were surveyed by university professors and graduate students in political science, and their findings were added to the survey material for the book. Altogether, almost half of the manager cities with more than 50,000 population and a third of those with more than 25,000 population have been included in this general appraisal.

The volume summarizes the results of manager operation in forty-eight cities which are still using the form and in two cities which have abandoned it. It contains chapters on Invention, Theory, Promotion, five on Administration, and five on Politics. These latter chapters discuss the work of councilmen, the spoils system, petty politics, red tape, and the conflict of political ideas.

No attempt is made to answer specific questions such as the size of the council, whether the manager should be an "outsider," or how far shall a manager be a leader of the council, upon the theory that these are local problems to which there may be no general answer. The authors do agree to certain propositions, however, which they believe significant even though local exceptions can be cited to all of them. They assert that (1) the manager plan *has* diminished partisan and factional influence in the city government; (2) managers in general have thrown their influence toward impartial administration and raised administrative standards; (3) they have improved organization and done a more "scientific" job than predecessors under other forms; (4) the concentration of administrative leadership in one person—the manager—has been a worth-while tonic to municipal government; (5) long-range planning has been encouraged in manager-cities; (6) manager-cities have shown improvements in personnel administration, in financial management, and in fiscal policy; (7) a more public spirited political leadership has come in with the manager form in many places, and the prestige of the council has been heightened; (8) administration and politics have been separated to a greater degree, and the single small council has accepted collective responsibility to all the voters for the whole city government; (9) the manager plan has made municipal government a broader and more vital function in the community and increased the citizens' respect for their governing agent; and (10) the principal accomplishment has not been to reduce taxes, but to reduce unit costs for services rendered; graft and waste were also reduced. In a concluding sentence, the authors write: "The ideals of the city-manager movement nearly everywhere added to the prestige of city government, lessened its preoccupation with trivial details and factional interests, and increased its ability to render service to the public."

It should be said for this volume that it is the first in a long time to try to tell us something objectively about the progress of the manager movement. Such a review was necessary, and every student of urban affairs will want to see it. It will be the handbook of manager government for some time to come.

CLARENCE A. DYKSTRA.

University of Wisconsin.

Civil Service in Public Welfare. BY ALICE CAMPBELL KLEIN. (New York: Russell Sage Foundation. 1940. Pp. 444. $2.25.)

In the last ten years, both civil service and social work have undergone transformations which have completely changed their character. Like so many of the older organizations of government, civil service agencies have ceased to be concerned only with the negative aspects of governmental work and no longer confine themselves merely to attempts to cope with the abuses of patronage politics. The modern civil service organization is beginning to emerge instead as a personnel department of government dealing with the important problems of selection, recruitment, and development of proper personnel for the various aspects of government work. During the same period, social work has developed rapidly as a major function of government, whereas before that time the major developments of social work had all taken place under private auspices. Indeed, before the 1930's there were few if any federal agencies employing any number of social workers, save for the Women's and Children's Bureaus of the United States Department of Labor. In state and local departments concerned with health, public welfare, and labor, the number of trained social workers was even smaller.

In her thorough and excellent volume, Mrs. Klein emphasizes the tentative way in which these two developing fields of government service have approached each other. When she began work, there was need for a "manual" for the guidance of groups of social workers concerned with civil service problems, but the material grew and what had been originally intended as a hundred-page pamphlet expanded into a several-hundred-page book. Yet the book is succinct as well as careful and scholarly. The first part of the volume is concerned with civil service history and practice, and gives some of the reasons why civil service procedures and systems have grown as they have in the United States, explains something of the rate and character of their growth, and emphasizes the important rôle which they play in public personnel administration. Intended as a "primer" in civil service, this section of the book is indeed a fine introduction to the field of civil service for others than social workers only. Mrs. Klein clearly traces the ways in which the merit principle has been applied to the selection, promotion, and management of personnel in the government service, and the methods by which security of tenure, reasonable working

conditions and adequacy of compensation have been secured for government employees.

The second part of the volume is devoted to a consideration of the points at which civil service procedure particularly touches public welfare. Realizing that this part of the study deals with more controversial aspects and is less factual than the first part, Mrs. Klein warns the reader of the tentative nature of much of the material presented. Nevertheless, this part of the volume does not entirely live up to the excellence of the first part, for its discussion of such matters as adjustment of professional and labor union concepts and adjustment to conditions imposed by government employment needs further development to be of great value.

The whole of the book would be improved by more exploration and discussion of the philosophy and basic concepts of both social work and civil service as contrasted with the techniques of the two. Important interrelationships in philosophy are yet to be explored in these fields.

JANE PERRY CLARK.

Barnard College.

Judicial Power of the United States. By ROBERT J. HARRIS. (Baton Rouge: University of Louisiana Press. 1940. Pp. ix, 238. $2.50.)

Jurisdiction and Practice of the Courts of the United States. By CHARLES BUNN. (St. Paul: West Publishing Company. 1939. Pp. ix, 257. $2.00.)

Professor Harris' book is a detailed case study of the judicial powers of the United States with its inevitable concomitant, jurisdiction of the federal courts. It might have been called "Judicial Power of the United States and Jurisdiction of Federal Courts." This longer title was avoided by the author by regarding judicial power and jurisdiction as practically synonymous. Otherwise, the treatise would have been much briefer, because jurisdiction ramifies into an endless labyrinth of indefiniteness.

The subject-matter of the book is divided into four major divisions: (1) "External Limits of Judicial Power" (73 pp.); (2) "Power to Regulate Jurisdiction" (71 pp.); (3) "Incidental or Implied Powers of Federal Courts" (37 pp.); and (4) "Legislative Courts" (36 pp.). The book is well footnoted with case citations, books, monographs, articles from law reviews and political science quarterlies. It has the earmarks of a scientific and exhaustive piece of work.

The first division is concerned with the definition of judicial power and its application to judicial process by means of such terms as cases, controversies, and parties, all of which have been variously defined by the courts for more than a hundred and fifty years. The federal courts, primarily the Supreme Court, have developed a judicially-made code for their regulation in the application of judicial power. Of course, this code, like

the Constitution itself, is subject to adaptation by the Court, making it easy for the Court to extend or restrict judicial power at will and to include or exclude disputes and parties as meeting or not satisfying judicial requirements, depending solely on the will of the Court. The Court never gives a definition without a reservation which leaves it free in the premises. Sometimes it devises definitions to extricate it from a too serious responsibility. The author is realistic when he says (p. 70): "All that the insistence upon a proper presentation of constitutional questions has produced to date is delay, confusion, and uncertainty." The demand by the courts that a case assume the character of a violent combat between litigants to be fought by a trickery smacking of legerdemain leads the author to conclude that the modern judge excels the primitive medicine man in the development of his instinct for violence.

The second division, dealing with jurisdiction, meets equal confusion and uncertainty. Any attempt to produce clarity from the cases on this subject is futile. The author says that the Supreme Court has legislated in this field despite the fact that Congress is supreme over jurisdiction except the original jurisdiction of the Supreme Court. Few constitutional-law students will question this statement. In fact, the Court has exercised constituent powers in approving the usurpations of the Congress. Indeed, the modern method of amending the Constitution is the passage of statutes by the Congress and ratification by the Court.

The other two divisions dealing with implied powers of the federal courts and with legislative courts, though briefer, are equally illuminating and challenging. The material cited is voluminous and its interpretation is dressed in a delightful style. It is impossible for one to write on constitutional problems with clarity or satisfaction unless he ignores the decisions of the Supreme Court, which supposedly constitute his source material. The cases contradict rather than agree. The Court divides, and the dissent becomes law. One can maintain almost any thesis by a discriminating selection of cases. The intellectual acrobatics involved whets one's wits and justifies the time and effort, even if one is forced to conclude that the sum total of his researches is confusion. While the author has not created confusion, he has made confusion more certain by proving its existence. The book is a critical exposition of a phase of judicial procedure and is a contribution to that increasing volume of literature which will ultimately provide a better system of justice for this country.

The second volume under review is a revision of a very useful manual of the same title originally written by Charles W. Bunn. This is the fourth edition by Charles Bunn and preserves the plan of the first three editions, but the content is almost new, due to the revolutionary changes made by statutes, decisions, and rules since 1927. In accuracy, and in directness and simplicity of style, this timely revision does not suffer in comparison

with previous editions, which were very useful to practicing attorneys, judges, and students of judicial process. It is a brief, clear, and essentially adequate treatment of federal jurisdiction. The present edition has added significance and usefulness because of its treatment of the recently adopted rules of procedure at law.

The book is divided into five chapters, dealing with (1) "The Federal Judicial Power"; (2) "The District Courts"; (3) "The Circuit Courts of Appeals"; (4) "The Supreme Court," and (5) "Matters Peculiar to the Federal Courts."

The discussion of the judicial power is brief and simple. The general shift in the federal judicial system made by the act of 1925 is especially emphasized. By this act, the district courts were truly made the foundation of the federal system by being given almost all of the original jurisdiction of the system; the circuit courts of appeals were made primarily appellate in jurisdiction; and the Supreme Court was given control of its appellate jurisdiction by means of *certiorari*.

Due to the primary importance of *certiorari* procedure established by this act, the author discusses this practice in some detail. It is noted that application for the writ of *certiorari* is made by a petition to the Supreme Court, accompanied by a transcript of the record of the case to be reviewed and presenting specifically the basis for review, the questions involved, and the reasons for issuing the writ. A time limit of three months from the entry of the judgment or decree to be reviewed is a further limitation on this procedure.

The last chapter deals with the new rules of procedure at law recently adopted by the Supreme Court, limitations on injunctions, and the application of the laws of the state in civil matters not governed by the Constitution and laws of Congress as a result of the overthrow of Swift v. Tyson by Erie Railroad Co. v. Tompkins, 304 U.S. (1938) 64. For obtaining the essentials of the subject-matter discussed, this is the best book on the market.

CALEB PERRY PATTERSON.

University of Texas.

The Law in Quest of Itself. BY LON L. FULLER. (Chicago: The Foundation Press, Inc. 1940. Pages vii, 147. $2.00.)

In a series of lectures delivered on the Julius Rosenthal Foundation of Northwestern University, Professor Fuller emphasizes the significance of legal philosophy in the analysis, evaluation, and creative development of the law. The lectures are devoted primarily to a consideration of the differences in point of view between the doctrines of legal positivism which insist on drawing a sharp distinction between the law that is and the law that ought to be and natural law doctrines which deny the possibility of a

rigid separation of the "is" and the "ought," and hence tolerate a confusion of them in legal discussion.

In clear, concise, and at times, unusually suggestive analyses, the chief schools of legal positivism, such as those whose thinking was influenced by Hobbes, by Austin and the Analytical Jurists, and by modern positivists such as John C. Gray, are briefly reviewed. American legal realism which has attempted to find true law in the behavior pattern of judges, in the opinion of the author, is unduly influenced by the theories and dogmatic assumptions of legal positivism. Hans Kelsen is credited with rescuing law from some of the unprofitable bypaths and detours which followed from the elaboration of the different positivist approaches to the law and with making "an honest fiction out of positivism." One of the original features of the lectures is the emphasis given to what is called the "autonomous order" which surrounds the positive law—a designation given to that part of human conduct which is carried out in accordance with legal rules and norms, without the intervention of the courts or the state.

The tendency of positivist thinking to favor reform through legislative action—a tendency which is notable in the opinions of progressive judges and legal writers—is disapproved. Reform through the judicial process is favored; for, in the opinion of the author, with all its deficiencies, the judicial process has a great advantage over legislation in that its decrees pass over readily into the "autonomous order." Contrary to the opinion of many lawyers and jurists, a system in which there is preëminently a government by judges, or a system in which judge-made law shapes common morality, is regarded as superior in most respects to one in which legal processes are primarily dominated by legislative action. Lawyers and political scientists will find this little book both interesting and provocative.

CHARLES GROVE HAINES.

University of California at Los Angeles.

An Introduction to Administrative Law, with Selected Cases. By JAMES HART. (New York: F. S. Crofts and Company. 1940. Pp. xviii, 621. $3.75.)

A book such as Professor Hart's has to meet two tests: it must satisfy the technical standards of the lawyer, and it must prove itself a stimulating device for instruction. On the one score, the work has been done with entire competence. On the other, this collection of materials seems certain to be a boon to the teaching of administrative law in departments of political science.

The case method of instruction has distinct advantages in studying the widening areas wherein law and public administration meet. There is a concrete issue and a specific disposition. One captures the excitement

which attends forensic controversy. There is the talk, and even the reticence, of the judges to ponder. But there are deficiencies which correspond precisely to the salient qualities of instruction in public law on the Continent—as it was, at any rate, when governmental authority was still subject to rational inquiry. There the student began with a *traité* or *précis*, characterized by the elaboration of doctrine and the proliferation of categories, with such incidental reference to decisions as to seem almost condescending toward the judiciary.

Professor Hart's *Introduction* represents a successful effort to appropriate the merits of each method. It is both text and case-book. There is a systematic treatment of the subject, in which have been embedded some hundred and seventy cases, adequately summarized or quoted at sufficient length. A competent teacher, unwilling to abdicate his function, is inclined to resent any condensed treatment wherein his subject is over-simplified by the elimination of all its attractive difficulties. The present attempt avoids this danger. The original material is calculated to quicken the student's curiosity. While "the law" is set out as fully as seems appropriate to the students for whom the book is designed, attention is constantly directed to public policy and social values as subconscious if not avowed elements in judicial decision. The problem of introducing the layman to the language of the courts and nature of judicial action has been met intelligently: explanations are supplied as needed, with neither unnecessary detail nor loose statement.

Questions of contemporary urgency, such as the finality of administrative findings of reasonable rates and the requisites of a "full hearing" according to the various teachings of the successive phases of the Morgan Case, are emphasized. There are enough cases to present the essential outlines, and the comments are temperate and suggestive. It seems safe to predict that Mr. Justice Brandeis' concurring opinion in the St. Joseph Stock Yards Case, 298 U.S. 38 (1936), will, on an appropriate occasion, be announced as the doctrine of the new Court. In connection with Morgan v. United States, 298 U.S. 468 (1936), the English landmark, Local Government Board v. Arlidge [1915], A.C. 120, is set out by way of contrast. Arlidge, like Morgan, wanted to press his contentions upon the very mind which was to decide his case, and Lord Shaw of Dunfermline described this as a "grotesque demand to individualize the department," inconsistent with the administrative efficiency requisite to a modern state. [Cf., however, the qualified view of the Committee on Ministers' Powers, (1932) Cmd. 4060, pp. 100 ff.] There are many other topics on which the urbane reasoning of modern British judges would have been instructive. The traditions of the courts of common law in measuring royal prerogative and construing statutes creating new public controls are an invaluable background. Yet the peculiar constitutional framework within which ad-

ministration operates in America, and the magnitude of our experience in forty-nine jurisdictions, doubtless excuses the omission of more English authorities.

The writer of a text must reap where many scholars have sowed, and Mr. Hart has been scrupulous and generous in his acknowledgments. The organization of the materials is his own, and the result is a novel and significant contribution.

CHARLES FAIRMAN.

Stanford University.

Das Ausländische Verwaltungsrecht der Gegenwart. EDITED BY REINHARD HÖHN. (Berlin: R. v. Decker's Verlag. 1940. Pp. 330. Reichsmark 20.)

This volume begins with a survey by the editor of the principles underlying French, English, and American administrative law. Then follow five contributions dealing in more detail with the Italian, French, English, and American systems of administration.

The outcome of such an ambitious undertaking depends, of course, as much on the special knowledge of the authors as on the general political philosophy underlying the whole treatment. As the authors have regarded the conflict between individual, society, and the state in terms of a standard pattern, it is sometimes difficult for them to appraise the weight of the various factors in foreign developments. For instance, Diener-Horstmann's interesting paper brings us a wealth of material on fascist constitutional and administrative ideologies. The authors drive hard to find points of theoretical differentiation between Fascist and Western "Rechtsstaat"-ideas. They also give ideological explanations for the differences between the National Socialist and the Fascist constitutional ideology. But the more realistic explanations—differences of power relationships causing a partial retention of the older constitutional set-up in Italy—is referred to only in a footnote which says that "the Italian constitutional situation is a dualistic one."

Höhn clearly recognizes the deeper social issues and their ideological accompaniments in the French development which led to the authoritarian régime of the last years. But the special studies on France fall far short of Höhn's outline. They content themselves with not very original descriptions of the French administration and of the procedures of administrative law. There is no attempt to depict the tendencies dominating the decisions of the *Conseil d'État*, and in particular there is nothing about the attitude of the *Conseil d'État* toward the decree-laws. If decisions are quoted at all, they are quoted from textbooks and treatises, showing that the authors have not profited by the wealth of decisions given and annotated in the collections of Sirey and Dalloz. But knowledge of these expert comments is essential to an understanding of the operation of French administrative

law. Probably the best and most adequate study in the book is that of the English developments, in spite of the fact that the social issues dominating the friction between judiciary and administrative bureaucracy have not been brought out as they might have been.

The discussion of the American developments was quite naturally the most arduous task, not only because of the difficult interpretation of the political process, but also because the administrative law is too much in its growing stage. Not even an American, far less a foreigner, would find it easy to give a correct evaluation. Höhn, as well as Ruckhäberle, who has done the special study on the United States, has a horror of the American form of party democracy. With home-made patterns from the 1930–32 epoch, they show the "disintegrating" effects of such an individualistic and pluralistic society. For home consumption, this picture must look the more horrible, since only those independent administrative agencies which work as a check and a counterbalance to the "disintegrating" forces of society are presented by our authors as the very outposts of party democracy within the administration—an interpretation which, if it does not contain an element of truth, has at least the character of novelty.

OTTO KIRCHHEIMER.

International Institute of Social Research.

The English Government at Work, 1327–1336. EDITED BY JAMES F. WILLARD AND WILLIAM A. MORRIS. Volume I: Central and Prerogative Administration. (Cambridge, Mass.: The Medieval Academy of America. 1940. Pp. xx, 467, maps. $5.00.)

This volume is the first of three which are planned to describe the administration of England during the first ten years of the reign of Edward III. Initiated by the late Professor James F. Willard, the project is an enterprise of coöperative scholarship of the most ambitious sort; and so far it has been strikingly successful. The project was the fruit of the belief, which is at least as old as Maitland, that one can learn best about English institutions by studying their very early history. During the last decade or so in England, recognition has gone most easily to those historians who are medievalists; and in the United States Professor Willard's long and devoted career was one of those that increased the repute of the study of medieval English history. The present volume is composed of essays by nine contributors—four resident in the United States, three in England, and two in Canada.

A lengthy introductory chapter by Professor Morris, of the University of California, surveys as a whole the central administration of England from 1327 to 1336. Professor Plucknett, of the London School of Economics, describes Parliament with full appreciation of its importance and its manifold activities, and a characteristic scepticism of dogma as to its ex-

act nature and composition. Professor James F. Baldwin, of Vassar College, discusses the King's Council with detail both as to its performance and as to the personal influences controlling it. The Chancery, at the time mostly an organ of administration and very little of the "court" that later writers consider it, is described by Professor Bertie Wilkinson, of the University of Toronto. An important quasi-governmental institution, the King's Wardrobe and Household, is described vividly by Mr. J. H. Johnson, of Chelmsford, England, with an inevitable and not unattractive reliance on financial accounts. Professor Hilda Johnstone, of the Royal Holloway College, writes substantially and entertainingly on the Queen's Household, dealing with a period when there were both queen consort and queen mother.

Three more peripheral problems are studied. Professor Henry S. Lucas, of the University of Washington, describes the Machinery of Diplomatic Intercourse, with much detail as to envoys and missions. Professor Albert E. Prince, of Queen's College, Kingston, makes an unusually suggestive survey of the management of the Army and Navy. Professor Nellie Nielson, of Mt. Holyoke College, analyzes (with maps) the administration of the Forests for a period when a considerable portion of England was still under forest law.

The advantage—and the difficulty—of a survey of administration six hundred years ago is the incompleteness of such comparatively few records as exist. The co-authors of this volume—all careful and experienced, and most of them internationally recognized scholars—are prolific with incident and example, reticent and cautious of generalization, and able to give life to much that seems meaningless to the more casual student. Whether or not the volume contains history, or simply the raw material of history, is a question that must be left to the scholars of tomorrow.

This volume is one of those coöperative enterprises which could be reviewed properly only if each essay in it were publicly analyzed by the author of some other essay. An inconsiderable amount of cross-firing in the footnotes shows that the authors have wasted little time in correcting their mutual ignorance. The semi-learned will be glad to note that the broad outlines drawn by Stubbs, Maitland, Petit-Dutaillis, and Tout are allowed to remain unblurred. These studies are supplementary rather than revisionist.

Subsidized by a number of educational foundations and societies and printed at a press which is left anonymous, the volume is handsomely got up and a credit to all concerned, particularly those whose names appear on the title page.

E. P. Chase.

Lafayette College.

The Machinery of Justice in England. By R. M. Jackson. (Cambridge: At the University Press. New York: The Macmillan Company. 1940. Pp. viii, 342. $3.75.)

The writer of this book is a solicitor of the Supreme Court and a lecturer in law in the University of Cambridge. His object is to explain the English system of law courts and allied matters relating to the administration of justice. In his opinion, the best introduction to law is a study of the institutions and environment in which lawyers work. Believing that any attempt to treat law as a pure science, isolated from the society it serves, is foredoomed to failure in the light of recent developments in legal thinking which emphasize the sociological approach, Mr. Jackson, who has taught a course on the English legal system to first-year students for some years, has reached the conclusion that the needs of the law student and the needs of those interested in public affairs are the same—that is, to know the present system for administering justice, how it really works, and what criticisms and suggestions have been made. As he sees it, we should seek for the nature of English law, not in its substantive rules, but in its machinery of justice. Accordingly, he devotes the greater part of his book to an examination of the operations of the present English legal system from the standpoint of jurisdiction, organization, procedure, personnel, costs, and the outlook for reform.

In seven chapters, he treats: (1) the development of the court system and the common law; (2) the nature of civil jurisdiction and the procedural and organizational methods involved in administering the civil law, including a discussion of the county courts, the High Court, the mode of trial, the enforcement of judgments and orders, the Court of Appeal and the House of Lords, the Judicial Committee of the Privy Council, and arbitration; (3) the nature of criminal jurisdiction, including the courts with original and appellate criminal jurisdiction, the process of prosecution, criminal procedure, the defense of criminal charges, juvenile courts, the probation service, and the technique of sentencing; (4) the personnel of the law, including a consideration of the work of barristers and solicitors, judges, juries, and other court officials, and the problem of legal education; (5) the troublesome problem of the costs of the law to which Mr. Claud Mullins devoted so much attention in his book, *In Quest of Justice* (1931); (6) the problem of special tribunals, which received such careful attention in W. A. Robson's *Justice and Administrative Law* (1928); and (7) the outlook for reform, including analyses of the existing agencies for law reform, of the proposals to create a Ministry of Justice, and of other proposals to reconstruct the English system of courts.

To cover completely the wide range of problems which emerge in a field as large as this would involve a book of monumental proportions. Mr.

Jackson has attempted no such expansive project. His purpose is to explain the essentials, briefly but adequately. This he has succeeded in doing in an admirable fashion. The net result is an excellent picture of the English legal system in action. For the student of the American judicial process, there is much to be gained from this book, since it throws very helpful light upon English experience with many devices and experiments in the field of judicial administration which have been receiving attention in this country in recent years. An index and a table of statutes are appended to this useful study.

F. R. AUMANN.

Ohio State University.

International Boundaries. BY S. WHITTEMORE BOGGS. Foreword by Isaiah Bowman. (New York: Columbia University Press. 1940. Pp. xi, 272. $3.25.)

The distinguished geographer of the Department of State exchanged the summer heat of Washington for the summer heat of New York long enough last year to offer a course at Columbia University on "Current Geographical Problems." To this temporary northward migration we owe this pleasant little volume on boundaries. The author asks us to accept his work as a brief introductory study, and within the confines of that modest objective he has achieved considerable success.

The first two chapters deal with preliminary material and a presentation of the general approach; the next seven provide a survey of boundary characteristics in different continents; the tenth is a reproduction of an excellent and suggestive article on water boundaries previously published in the *Geographical Review* ("Problems of Water Boundary Definition: Median Lines and International Boundaries through Territorial Waters," Vol. 27, July, 1927); and the concluding chapter discusses briefly the peaceful adjustment of boundary controversies.

To the author, a state boundary is in essence a geographic expression of a political fact, namely, a delimitation of sovereign jurisdiction. This accounts for the intimate relation between the nature of boundaries and the nature of the economic and political relations between states. Not only are historical changes in the function of boundaries a reflection of the changes in international intercourse, but the differences in boundary problems in different regions are a direct expression of differences in economic and political life.

Asia, the largest continent, with half the world's population, is, according to the author, the most fortunate of the continents. In proportion to its vast area, its boundaries measure less than those of any continent except North America. They are in areas of low population density, relatively free from boundary pressure, and between political units not yet

caught in the spirit of irredentism and with comparatively simple international transactions. Boundary controversies in Africa have resulted partly from the fact that they were drawn by well-meaning statesmen on inadequate maps before the geography of the frontier regions was known. Low population density and little internal commerce have kept native tribes largely unconscious of the restrictions imposed by the colonial boundaries, and the frontiers have interrupted native life less than in many other parts of the world, although the actual inhabitant of the frontier zone has had less voice in the boundary-making than any other people. The South American boundaries were in almost all instances established antecedent to settlement by European peoples and, like the African demarcation lines, were defined in time of relative geographical ignorance. The independent states, which succeeded the Spanish Empire, claimed boundaries in terms of ancient provincial subdivisions, each selecting from conflicting documents the boundary most suited to its national aspirations. In the light of these two characteristics, the author considers that the Latin American record for peaceful settlement is excellent rather than otherwise. The North American boundaries are characterized as transcontinental boundaries between pairs of states. There is a brief description of the American-Mexican border and of the Canadian-American border, and for the latter section there is an admirable appendix giving the documentary background of the making of this boundary.

With numerous population movements, expanding, contracting, and disappearing empires and kingdoms, the pattern of nationalities which Europe presents today is more complex than that of any other continent. That continent presents to the author the anomaly of being the most highly industrialized and intrinsically the most interdependent continent on earth, and at the same time the most highly compartmentalized. He doubts, therefore, that the boundary problems of Europe can ever be solved to any considerable degree by shifting the lines. "The solution of many of the most perplexing problems should therefore be found in progressive and far-reaching simplification of the boundary functions." This sentence will leave the reader plenty of food for thought. The European statesmen have been unwilling or unable to achieve the integration of their continent on a voluntary basis through the League of Nations or some other institution, and it looks now as if Herr Hitler is solving this problem for them by integration through force of conquest.

Mr. Boggs has given us a welcome addition to the literature of his subject. To the reviewer, the most intriguing feature of the book is the fact that it is almost completely silent on the strategic aspect and the defense function of frontiers. That the geographer of our "foreign office" could write a volume on boundaries and not mention this phase is beautifully symbolic of the position of the United States in the world of yesterday.

When the time comes for revision, even the United States will probably be interested in the defense character of frontiers; and we hope that Mr. Boggs will use that opportunity to round out his treatment.

NICHOLAS J. SPYKMAN.

Yale University.

The Saar Plebiscite. By SARAH WAMBAUGH. (Cambridge, Mass.: Harvard University Press. 1940. Pp. xv, 489. $5.00.)

Miss Wambaugh doubtless knows more about plebiscites than any one else in the world. She has written a monograph on plebiscites; a two-volume work on plebiscites since the World War; and now a thorough study of the Saar plebiscite. She was the League of Nations expert for the Saar in 1920; helped draft the plebiscite regulations in 1934; and as technical adviser and deputy member of the Commission, helped to administer the voting which turned the territory back to Germany.

Part I of her new book traces the history of the Saar region from the time of the Roman legions to the Treaty of Versailles, and gives an interesting account of the economic and social background of its people. Part II describes the League of Nations régime; Part III describes, in more detail, the preparations for the plebiscite; and Part IV, the voting itself. Documents occupy one hundred and fifty pages of appendix. There are maps and pictures, a short bibliographical note, and an index.

The League of Nations took over the administration of the Saar territory in February, 1920. It had been expected that an American, Professor Haskins, would be chairman of the Commission; but when the United States failed to join the League, the post was given to a Frenchman. This was a mistake, for, good as he was, the Germans naturally opposed him. From almost the first day, an organization was set up in opposition to French control, and therefore to the League Commission. The presence of French garrison troops and the occupation of the Ruhr did nothing to produce harmony; and the fact that practically all of the 12,000 officials were Germans added to the difficulties. The situation cleared up somewhat as it became known that the Commission was not autonomous and that the League itself was exercising control; also, because the French chairman was succeeded by a Canadian.

After Locarno provided a feeling of security, the French lost much of their interest in the Saar; nevertheless, the negotiations of Briand and Streseman for the return of the area to Germany (sentiment in favor of Germany being overwhelming among the inhabitants) failed because of the French conviction that no breach could be made in the Treaty of Versailles.

There was no doubt of the desire to return to Germany until the advent of Hitler. From that time on, the Commission found it necessary to pro-

hibit arms or military training; but it was unable to prevent the pressure exerted upon inhabitants by Nazi organizations and propaganda. It adopted increasingly severe restrictions, which brought more pressure. Officials especially feared for their jobs when the transfer to Germany should be made. Thus, when time for the plebiscite arrived, the Saar was a battle-ground of ideologies.

Miss Wambaugh describes in detail the preparations made for the plebiscite, and the actual conduct of the election. She thinks that it represented a distinct advance in the conduct of plebiscites, in that it was entirely under neutral auspices, backed by an international police force, and absolutely secret. She suggests various lessons for use in the next one. From all evidence, one must agree that the League of Nations had an admirable record of success in the Saar.

CLYDE EAGLETON.

New York University.

Failure of a Mission: Berlin, 1937–1939. BY SIR NEVILE HENDERSON. (New York: G. P. Putnam's Sons. 1940. Pp. xi, 334. $3.00.)

This first-hand account of the author's mission in Berlin from April, 1937, to September, 1939, adds little of importance to the formal history of the negotiations which preceded the war, but it reveals some of the reasons for the weakness of the British policy of the Munich era and confirms the impression that the British Government was ready for another Munich at the expense of Poland if it could be clothed in outwardly decent forms. The reader is warned that "in a book of this nature, written so soon after the events recorded therein, there must necessarily be certain reticences." The appended documents, seven in number, have all been published in the official White and Blue Books. There is no index.

The book is well-written and pleasantly chatty, with much space devoted to such matters as the condition of the Embassy premises in Berlin and Goering's shooting parties. The author is at his best in sketching the personalities of Hitler and his associates. As a typical diplomat, he considers intrigues among courtiers as an important factor in history. Ribbentrop and Himmler are Hitler's evil genii, while Goering is the good angel, although "a typical and brutal buccaneer." Had it not been for "the fanatical megalomania and blind self-confidence of a single individual and of a small clique of his self-interested followers," Sir Nevile's mission might have succeeded, especially if the British press had refrained from exercising its freedom ("there was too much criticism and too little constructiveness in respect to Nazi Germany"). The dynamics of the Nazi movement, which is compared to the French Revolution, did not escape the author's attention altogether, but although his observations of a personal nature are often characterized by shrewdness and common sense, a

lack of understanding of the more impersonal processes is only too evident.

Since the author's mission failed, there is naturally an undertone of apology and recantation. Sir Nevile admits that his views may have been mistaken in many respects. He is ready to admit that "Hitler never intended the ultimate end to be other than war." Yet there is no understanding of the causes of his mistakes. In Sir Nevile's own words, he went to Berlin resolved "to do my utmost to see the good side of the Nazi régime as well as the bad, and to explain as objectively as I could its aspirations and viewpoints to His Majesty's Government," with a view to the preservation of "an honorable peace." This praiseworthy objective became perverted into an acceptance of wishful and gratuitous assumptions as to what the Nazi "aspirations and viewpoints" were. Sir Nevile's calculations and those of his superiors were admittedly based on the expectation of the best, instead of the worst (p. 97)—a fatal mistake in any campaign, military or diplomatic, but hotly defended by the author. The British rulers were evidently ready, as early as 1937, to let Germany absorb all the areas inhabited by Germans, including Sudetenland and Danzig (pp. 73, 97–99). They seem to have assumed that this was the foremost aspiration of the Nazi régime, in spite of the fact that on the day after his arrival in Berlin Sir Nevile heard Hitler demand *Lebensraum* for Germany in Eastern Europe (p. 30). While much thought was devoted, paraphrasing the author, to rubbing Hitler's back the right way, the effect of the Nazi expansion upon the future of the European balance of power was at first given scant consideration. Order and efficiency were among the "good" sides of Germany which evoked Sir Nevile's admiration. Admirable qualities, but "good" *for whom?* Such a question apparently never troubled the author. Nor does he seem conscious of slipping into a Nazi mode of thought when he remarks that "militant Prussianism" may in part be due to a Slavic admixture, and that "it is no coincidence that in the last war it was the Prussians rather than the Germans whom we regarded as our real enemies," thereby ascribing inheritable mental qualities to a language group—the Slavs. Needless to say, Sir Nevile does not explain the absence of the same trait in the Czechs, for instance, or in Austria, where the Slavic admixture is probably as strong as in Prussia. Nor does he explain why Slavic blood should make a people the "real enemies" of England.

The mentality of Sir Nevile and his superiors was in no wise fundamentally different from the appeasement mentality still prevalent in wide circles in all the Western democracies and by no means confined to Tories or "economic royalists." With an irresponsibility born of long security and prosperity, these circles are attracted to Germany by precisely the qualities—vitality, efficiency, and solidarity—that make Germany, by virtue of the dynamics of group survival, the most deadly menace to every other nation in the world. Strangely enough, the "democratic" appeasers—and

Sir Nevile is no exception—fail to imitate, or even recognize, one admirable German characteristic: the effort to understand and to make use intelligently of the dynamics of the international struggle for survival, to which (and *not* to racial doctrines) the German successes in diplomacy and war are due in no small part.

OLIVER J. LISSITZYN.

Council on Foreign Relations.

Inside Europe. By JOHN GUNTHER. (New York: Harper and Brothers. 1940. Pp. xxii, 606. $4.50.)

Union Now. (Shorter Version.) By CLARENCE K. STREIT. (New York: Harper and Brothers. 1940. Pp. xii, 256. $2.00.)

A Federation for Western Europe. By W. I. JENNINGS. (New York: The Macmillan Company. 1940. Pp. xi, 208. $2.50.)

For What Do We Fight? By NORMAN ANGELL. (New York: Harper and Brothers. 1939. Pp. v, 327. $2.50.)

Writers on international relations have probably never faced such trying times for the publication of their books as during the last few years. For, as international currents and patterns have changed more and more rapidly, there has been an increasing need for their interpretation; yet the more rapidly these changes have occurred, the more dated have appeared the views of even the most serious commentators. However, in spite of the passage of time since their publication, which has made them out of date in certain respects, all four of the books here reviewed possess qualities which make them of more than passing value.

John Gunther's book is, of course, only a recent edition of an old standby and a companion volume to his equally useful *Inside Asia.* It is a journalist's look into the workings of national and international politics on the continent of Europe, with many valuable insights which only few experienced observers can provide. The present 1940 war edition contains, according to the publishers, many more thousands of words, as well as many changes to bring it up to date. It still contains, however, minor passages (e.g., in the section on Russia) which no longer apply. Actually, the revision comes down to the fall of 1939, except for brief passages in the preface as late as December of the same year.

Clarence Streit's *Union Now* is the already familiar work first published in the United States in 1939, but now made available in a smaller and cheaper edition. The chapters have been shortened and the two annexes on the relation of national sovereignty to the gold standard and on the Locarno Treaty have been omitted.

W. I. Jennings attempts to apply to Western Europe the principles of *Union Now.* For this purpose he has drawn up a constitution which would

apply to a federation including Germany (where he assumes the Nazi rule to be only temporary), France, the United Kingdom, Australia, Canada, New Zealand, the Union of South Africa, Rhodesia, Belgium, Denmark, Eire, Finland, Netherlands, Norway, Sweden, Switzerland, Iceland, Luxembourg, and Newfoundland. It is an effort to show primarily British readers the way whereby peace through world order could be established by a federation with central power over trade, colonies, defense, and foreign policy. It is not intended to be the one most desirable plan for world organization; it aims rather to show the feasibility of federalism as a working system. It is submitted as something to be discussed, revised, and perfected. It is above all an effort to get public opinion accustomed to the idea of federation as a practical substitute for the present impractical system based on wholly sovereign national states.

Norman Angell is less concerned with a detailed plan of world reconstruction than with the preservation of the system of thought and values associated with the development of Western liberal democratic institutions. He is appealing to his English compatriots to state clearly this issue for which they are really fighting, in order that their objective may be clear to themselves now and after the war, and in order that like-minded neutrals may direct their own policies accordingly. In terms of both its immediate and long range goal, the discussion aims at the ultimate application in international relations of those democratic principles which, however tentatively, form the basis of the liberal democratic state. It is an effort to show the English public what this war is about and to prepare it for the greater task which falls upon civilians after the war, when the armed forces have completed their task. It is, of course, premised upon the assumption of a British victory.

The fact that all four of these books were written before recent events caused the disappearance of several democratic states naturally serves to date them and to introduce into them a note of unreality. Nevertheless, there is much that is of a lasting nature and that shows insight into the causes of the collapse of the world order of 1920. It remains to be seen whether there will be an opportunity to profit by this understanding, but it is interesting to note on how many things the authors seem, implicitly or explicitly, to be in agreement. Important among the causes for the collapse of world order were the failure to apply the liberal democratic doctrine to international affairs and the refusal to limit national sovereignty sufficiently to permit the creation of an international society. Why this next step was not taken when the opportunity existed, between 1920 and 1940, does not become clear, except perhaps in the continual emphasis of Streit, Jennings, and Angell upon the need of a more enlightened and organized public opinion. In all, it is clear that a *groszraumwirtschaft* such as the Germans today aim at through compulsion and domination, but

based on coöperation and limitation of sovereignty in matters affecting armaments, trade, and colonies, was the only road that could have been followed to avoid the present catastrophe. It was thus the insistence upon independent national action that led to the final collapse of individual and collective prosperity and peace.

That an allied (perhaps more accurately, British) victory is essential to the building of a world order acceptable to the people with a liberal democratic heritage seems clear. But that a British victory alone will not assure any more stability than we have had, or than we are likely to get from a fascist victory, is also clear. It is here that these volumes make their most significant contribution: Gunther in showing the Europe which was the product of drift, international disorganization, and public apathy; Angell in urging the clear formulation of the ends for which Britain should be fighting and what her people should insist upon; Streit and Jennings in attempting to formulate a program of minimum essentials if peace by cooperation is to be made possible. For the political scientist interested in the problem of creating a more stable world order, all four of these authors have performed a helpful service.

WALTER H. C. LAVES.

University of Chicago.

Why Europe Fights. By WALTER MILLIS. (New York: William Morrow and Company. 1940. Pp. vii, 277. $2.50.)

Canada, Europe, and Hitler. By WATSON KIRKCONNELL. (Toronto: Oxford University Press. 1939. Pp. vii, 213. $1.50.)

The Background and Issues of the War. By H. A. L. FISHER, A. D. LINDSAY, GILBERT MURRAY, R. C. K. ENSOR, HAROLD NICOLSON, J. L. BRIERLY. (Oxford: The Clarendon Press. 1940. Pp. vii, 141. $2.00.)

Three books, a thrice-told tale, each telling justifying itself to its American, Canadian, or English audience!

Why Europe Fights is in the American taste by a competent journalist, which means that its lines flow effortlessly, its content smoothly arranged and the innate drama of the material built up. Mr. Millis has woven together a complex narrative with excellent selective judgment, without moral or other answers artificially invented and attached. He set out to record for the general public the running story of 1918–39, and he has done so good a literary job that objection even to his adjectives is difficult and more illuminative of the reader's slant than of the author's failure of comprehension. Considering that the book is a rewrite of sundry published accounts of varying merit, the work is notably accurate in its values and facts. Most of the distortions of the sources used, by luck, instinct, or judgment, have been refined out. A popularizer may be pardoned the

repetition of such misstatements as that the German-Austrian *Anschluss* was "forever" forbidden, or that German transfers of reparation payments under the Dawes plan were by loans to Germany (the recipients then had the responsibility of transfer). *Why Europe Fights* is so satisfactory a popular account of the beginning of Hitler's war that it is to be hoped that its appearance will discourage any one else from inevitably doing the same thing worse.

Canada, Europe, and Hitler is at once a creditable exhibit of Canadian scholarship and an enlightening report of Canadian group sentiment. The first half of the book is as neat and meaty a summary of Hitlerian dogma and European deterioration under it as can be done in a hundred pages. The second part is a detailed analysis of the extent and state of mind of the various groups of European-Canadians, each with its own history, aspirations, and press. Mr. Kirkconnell has perspicaciously delineated the many groups, soundly reflected their special attitudes, and given one of the best-balanced series of selections from a dozen vernacular presses that has ever been brought together to indicate the trend of group thought. A final chapter pronounces strongly for Canada's participation in international federation after the war is over.

The Background and Issues of the War consists of six lectures delivered last Michaelmas term at Oxford to freshmen; so many other people attended that Vice-Chancellor George Gordon published them for any who wished to read them. In "The Historical Background," the late H. A. L. Fisher shows why Germany is Europe's problem-nuisance. In reviewing "War to End War," A. D. Lindsay pertinently finds that the débâcle hinged on the failure to invent ways to apply sanctions soon enough and recommends a system of "first-resort" sanctions to prevent "the authority of world order being frittered away." Gilbert Murray's "League of Nations: The First Experiment" points out that the states bound by the Covenant did not have the self-restraint to make world order work, but that the League's legacy of organized coöperation insures that "the movement cannot die." In the character sketch, "Hitler," Mr. Ensor finds that he is Germanically representative and the comprehensive embodiment of the *damnosa hereditas* of the Teuton clan. Harold Nicolson's "The Diplomatic Background is a penetrating analysis of German diplomatic technique which, always based on violence rather than understanding, has under Hitler cast aside the essential credit factor and taken on emotionalism, ignorance, and irresponsibility as devices to aim uncertainly at "world domination or collapse." In "The Laws of War," Mr. Brierly once more clarifies a matter of international law by analyzing the deficiencies of laws to regulate the conduct of war, pointing out their limited usefulness and calling for resumption of "the task of building a world in which law and not force shall bear rule."

DENYS P. MYERS.

World Peace Foundation.

War Propaganda and the United States. By HAROLD LAVINE AND JAMES WECHSLER. (New Haven: Yale University Press. 1940. Pp. x, 363. $2.75.)

This publication of the Institute for Propaganda Analysis is "the first book to show what the propagandists are doing in this present war to influence the United States. The authors seem unable to make up their minds (or perhaps they differ) as to the ultimate significance of the current propagandas; for, on some pages they demonstrate that events take priority over propaganda in war causation, while the final peroration stresses that the masses are at the mercy of the propagandists and their American sympathizers.

In any event, they have performed a useful service to the perplexed citizen in presenting a descriptive sketch of the belligerent "word factories" and the media by which their products are disseminated, an extended analysis of the appeals employed by the propagandists, an examination of America's news of the Russo-Finnish War, and a discussion of the impact of these propagandas upon the American public.

The greater emphasis upon British appeals, rather than German and French, seems to accord with the Institute's aim, "to prevent the American people from again succumbing to over-simplifications and distortions of the truth." One of the British difficulties lies in the division of their spokesmen into two conflicting camps: the imperialistic, conservative appeasers; and the democratic, liberal crusaders. In the German propaganda, contradictions are found to be less damaging; for Goebbels' task is merely to prevent the British from overcoming our aversion to war. Despite the foreigners, great emphasis is placed upon the effectiveness of native propaganda-spreaders, especially the President.

Throughout eight months of intensive propaganda, the American people remained constant (*circ.* eighty-four per cent, *vide* Gallup) in their sympathy for the Allies. At the same time, sentiment favoring immediate declaration of war declined from sixteen per cent to four per cent (the Communists being adjudged "a good deal more influential than the Nazis in promoting isolationism"). Although giving these figures, Lavine and Wechsler conclude that "the elasticity of popular emotion" is the "key fact" concerning the American response. They apparently prefer to judge the public by the varying guesses on the question, "Will America enter the war?," rather than by the direct expressions of attitude on the topics just mentioned.

The enduring sympathy for the Allies has already led to measures short of war. Further measures may depend upon events; for "much of the isolationist sentiment rested on the assumption that eventually the Allies would triumph." Another sort of event, such as "an overt Nazi gesture on this Continent, would probably accomplish at once what an expeditionary force of British lecturers might strive for months to accomplish." The

authors stress also the economic forces making for war, as a result of "the momentous impact of the [arms] embargo decision on the future mentality of the nation."

If the reader emphasizes these considerations, he will conclude that American policy depends more upon the impact of events on traditional American beliefs than upon the propaganda of belligerents. On the other hand, the domestic propaganda for preparedness may decisively affect the final decision.

H. SCHUYLER FOSTER, JR.

Ohio State University.

Turkey at the Straits. BY JAMES T. SHOTWELL AND FRANCIS DEÁK. (New York: The Macmillan Company. 1940. Pp. ix, 196. $2.00.)

In this book, Professors Shotwell and Deák have covered in a series of short chapters the history of the Straits from the Trojan War to the Mutual Assistance Pact of October 19 last. As a theme, they have rung the changes on their opening sentence: "The 'Question of the Straits' is one of the oldest and most persistent problems in European history."

Of the 136 pages of text, however, only 71 pages are, strictly speaking, new. These are by Professor Deák. The first 65 pages, according to the preface, were prepared by Professor Shotwell "in 1918 as part of the documentation of the American Commission to negotiate peace at the Paris Peace Conference." Of this memorandum, 54 pages dealing with the Straits up to the Treaty of London, 1871, have already appeared in *International Conciliation*, Vol. 180, November, 1922 (not 1921 as stated in the preface), pp. 469–527.

No new interpretation was attempted by Professor Shotwell in the 1918 memorandum. He was content then to trace the events concerning the Straits up to and including the Congress of Berlin, in an orderly fashion, largely in terms of diplomatic history, and utilizing the conventional documents. The passage of twenty-two years has not affected the soundness of his judgments nor produced materials (notwithstanding the flood of official documents published after 1918) which would radically affect the facts presented.

Professor Deák, in his section, has also written a straightforward competent historical account of the diplomatic struggles from the Congress of Berlin to the Turco-Anglo-French Pact of last October (October 10 instead of October 19 in the text of the Pact as given in Appendix No. 4 is obviously a misprint). Professor Deák admirably achieves the objective set out in the preface of reducing the narrative "to the simplest of outlines." He does not attempt interpretation until the final chapter, where, among other things, he rightly points out that Protocol II of the Mutual Assistance Pact does not bar Turkey from going to war with Russia,

but merely provides a possible loophole. It must be remembered, however, that since Ismet Inönü became president of Turkey, the core of Turkish foreign policy has been to take no steps which would alienate this greatest and most immediate neighbor, notwithstanding the risk that Russia might turn on Turkey. The Mutual Assistance Pact itself, whereby British and French help was secured against Italy and Germany, was signed with Russian assent.

Professor Deák, in his capacity as an international lawyer, might well have given more interpretation and thereby increased the value of the book, particularly in the sections on the Montreux Convention and the Mutual Assistance Pact. He does, however, call attention to a number of specialized articles, including those by Professor F. de Fisscher.

Although this is hardly the definitive work on the subject, and undoubtedly was not so intended, the authors have performed a useful function in providing for the first time a compact and scholarly summary of the Straits question. Inclusion of the texts of the abortive Treaty of Sèvres, of the Lausanne Convention, of the Montreux Convention, and of the Mutual Assistance Pact, together with a selected bibliography, a sketch map, and a chronological index, adds to its value.

PHILIP W. IRELAND.

Harvard University.

Shanghai and Tientsin; With Special Reference to Foreign Interests. By F. C. JONES. (New York: American Council, Institute of Pacific Relations. 1940. Pp. xxx, 182. $2.00.)

Shanghai; City for Sale. By ERNEST O. HAUSER. (New York: Harcourt, Brace and Company. 1940. Pp. 323. $3.00.)

These two books will appeal to different groups of readers. The study of Shanghai and Tientsin brings together essential information for the person who has insufficient time to gather the material himself. Mr. Hauser's book will appeal to the general reader who still likes to think of the Orient as a glamorous and exciting region. Neither of these volumes adds a great deal to our previous knowledge or attempts to go very far beneath the surface of events.

Mr. Jones, with the aid of members of the Royal Institute of International Affairs, has succeeded in presenting a brief and almost purely informational survey of foreign interests in China's two important ports, Shanghai and Tientsin. Each city is dealt with separately, and the origin and development of the foreign settlements and concessions in these ports are briefly traced. There is an attempt to show the relation between these international interests and the national interests of China. In the section on Shanghai, there is a valuable chapter on the position and aspirations of Japan in that city which brings together information not easily found.

Several chapters in each section attempt to show the effects of the Sino-Japanese hostilities on the city as a whole and on foreign rights and interests in particular. To each section is attached a series of tables on trade and finance which will be valuable as reference. The introduction to the book by Professor Vinacke should be read even more carefully than the book itself, since it indicates a line of investigation which, if followed in this study, might have been more fruitful than the collected facts which are presented with little attempt at thoughtful interpretation.

Mr. Hauser's book is not a research project, nor was it undertaken as such. Its easy journalistic style and adherence to a central theme are its chief assets. Bits of history are enlivened by many anecdotes of Shanghai, which is, without doubt, one of the most colorful cities in the world. The theme of this book is found in the story of the domination of Shanghai by the "taipan," or business groups, throughout its history. The chapters which deal with events after 1920 are well written and the most clearly organized, since Mr. Hauser is a bit weak on his earlier history. The author concludes that the beginning of the Sino-Japanese conflict in 1937 marked the end of the Shanghai he has attempted to describe, although there will be many to disagree with him on this point. The value of the book would have been greatly enhanced if the story of the city could have been carried through the first two years of the conflict, particularly since the author was in Shanghai a part of this time and had opportunity to observe the effects of the hostilities.

These two books again reveal that the racial, economic, and political problems which have developed in Shanghai and Tientsin, complicated by the existence of foreign residential areas and foreign interests, deserve many studies undertaken from many points of view, and that the field of investigation is still wide open.

WILLIAM C. JOHNSTONE.

George Washington University.

American Policy in the Far East: 1931–1940. BY T. A. BISSON. (New York: International Secretariat, Institute of Pacific Relations; I. P. R. Inquiry Series. 1940. Pp. x, 146. $1.25.)

The Existing Legal Situation as It Relates to the Conflict in the Far East. BY QUINCY WRIGHT. (New York: International Secretariat, Institute of Pacific Relations; I. P. R. Inquiry Series. 1940. Pp. x, 129. $1.00.)

The publications of the International Secretariat of the Institute of Pacific Relations have long been recognized as invaluable aids to the study of developments in the Pacific area. The above recent additions to the I. P. R. Inquiry Series fully maintain the high standard that has been set by earlier publications.

Mr. T. A. Bisson, a member of the research staff of the Foreign Policy

Association, and the author of *Japan in China* (1938), sets forth a quietly scholarly analysis of what he regards as a sound and consistent national policy—consistent both with itself and with the broad principles upon which any decent system of international relations must rest.

According to Mr. Bisson: "The contemporary upheaval in the Far East, both in scope and significance, invites comparison with two previous periods: the threatened break-up of China in 1895–1905, and the World War crisis of 1914–22" (p. 3). "The terms 'equality of opportunity,' the 'open door,' and the 'territorial integrity' of China . . . sum up an official attitude toward Far Eastern questions from which the American government has not deviated since 1899, and the roots of which can be traced back to a much earlier period. When the realities which lie behind these phrases have been challenged, the American government has not sought to enforce them by reckless and irresponsible resort to armed force. Yet it has never surrendered them" (p. 94).

These two carefully weighed statements and the well documented record by which they are justified (Mr. Bisson appends forty pages of pertinent documents, drawn chiefly from Department of State *Press Releases*) will, if they reach the reading public that they merit, lead to a wider understanding of American interests and policy in the Far East.

Professor Quincy Wright needs no introduction to those interested in international affairs, especially as affecting the Pacific and the Far East. In the present closely written study—after brief introductory chapters on law and facts, sources of international law, and the status of Far Eastern territories—the author deals at somewhat greater length with jural personalities, territorial rights, and legal relations in the Far East.

With respect to the fundamental issues involved in the present conflict, Professor Wright finds that international law, as accepted by the civilized world, is in flat contradiction with Japanese claims and pretensions; that the evidence "is sufficient to warrant the conclusion that China, Japan, and Siam have been admitted to the Family of Nations and consequently that the entire body of international law applies to their relations both *inter se* and with Western powers" (p. 29); "that China is a sovereign, full member of the League of Nations, entitled to benefit by the principles of general international law except in so far as special obligations may be imposed by unequal treaties still in force" (p. 54); that "war is the legal condition which *equally* permits two or more hostile groups to contend by regulated violence. If hostilities are resorted to contrary to obligations owed to other states, such other states are free to discriminate against the state, technically known as the aggressor, found to be responsible for the hostilities. If they do so discriminate, the situation is not war in the legal sense, because legal equality of the participants is the essence of war. Consequently, only if, by proclaiming impartial neutrality, they recognize the

situation as war does it have that status" (pp. 93–94). "If hostilities have been recognized as aggression, the aggressor does not acquire rights or relieve itself of duties, while the defending state acquires the rights which, if it were a belligerent, it would have against an opposing belligerent" (p. 95).

The authors, the Institute of Pacific Relations, and the reading public are alike to be congratulated upon the appearance of these useful studies.

G. NYE STEIGER.

Simmons College.

The Electric Power Industry; Development, Organization, and Public Policies. By JOHN BAUER AND NATHANIEL GOLD. With technical coöperation of Alfred E. Shaw. (New York and London: Harper and Brothers. 1939. Pp. xii, 345. $3.50.)

This is a timely book by highly trained and experienced authorities in the field of relations between the government, the public, and the electric power industry. Dr. Bauer's long experience as an investigator, lecturer, writer, and consultant in the field of public utility valuation and rates, and his success as the representative of the public interest in many rate cases, fit him especially well for the task of analyzing and presenting the current situation in the electric power industry. Dr. Gold also has an assured position as a competent expert in the public utilities field. (He was co-author with Dr. Bauer of *Public Utility Valuation for Purposes of Rate Control*, 1934.) The book is written to interest not only political scientists, government experts, and private owners and managers of the industry, but especially "the ordinary intelligent readers"; hence the subject has been "presented in non-technical language" (p. xii).

The avowed purpose of the authors was "to present the electric power industry in its basic public setting." The important contribution of the electric industry to the future welfare of the country is emphasized throughout. The authors declare that the "adoption of clear-cut policies to facilitate the development of the industry and to safeguard the public interest is of profound importance for the expanding prosperity of the country."

The book consists of three parts: Part I traces the development of the industry and indicates its essential importance to our national economy. Not only technological advances in generation, transmission, and distribution, but also the social problems of cost, reasonable rates, and utilization development, are featured in this section.

Part II presents and evaluates private organization and management. Phases of the "power trust" are discussed; processes, methods, and results of consolidation and over-capitalization are outlined; and the capitalizing of "location," disregard for depreciation, lack of integration and

coördination, vital faults in management, and uneconomical coördination of distant properties through holding companies, are described and constructively criticized; and the authors' criteria for determining "fair value" are stated.

Part II concludes with an expression of doubt regarding the ability or willingness of the industry to reorganize and to create a sound financial structure in conformity with "reasonable public needs and purposes." It is the opinion of the authors that private organizations have been perpetuated "which now stand in conflict with essential economic development." The authors predict a period of transformation and see as the agencies for such transformation "first, . . . the means of state, local, and federal regulation, and second . . . a basic shift from private to outright public organization" (p. 222).

The subject of Part III is "Public Objectives and Control." Here are presented "policies and measures which on the one hand can be applied to correct the distortions of existing organization and on the other hand to keep the industry reasonably directed to fundamental public needs and objectives." After summarizing the problems and methods of state regulation and evaluating the work of state commissions, the authors add a pessimistic note that "we cannot develop great enthusiasm to believe that state regulation can or will be sufficiently reconstructed to serve reasonably the public needs" (pp. 246–247).

A return to the recognition of municipal responsibility to supplement state regulation is forcefully set forth. It is proposed "to place upon individual municipalities the responsibility of obtaining and maintaining systematic revision of rates on the basis of facts periodically assembled and analyzed" (p. 250). The suggestion is offered that "rate regulation could be made much more effective if municipalities had the power to fix rates by ordinance" (p. 259).

The development of federal regulation under the Public Utility Act of 1935 is critically analyzed and evaluated. Although the authors are "completely in accord with the objectives," they raise grave doubts regarding the "successful attainment of the purposes." The authors believe that "proper readjustment of the electric systems under the Public Utility Holding Company Act furnishes . . . the only reasonable course to preserve private ownership and operation, with public regulation. . . . If they cannot be sensibly readjusted as contemplated by the Act, the ultimate recourse really must be public ownership and operation" (p. 269). The authors see, however, "a mounting question whether regulation may be made to work satisfactorily and whether the form of organization should not be shifted to outright public ownership and operation so as . . . to keep the industry directed constantly to public objectives."

The remaining chapters of Part III present the case for public owner-

ship, the obstacles to be met in order to make it effective, an evaluation of present-day municipal ownership, the "pattern and program of public organization," and an outline of "a program to serve as a pattern for sensible public action.

The reader may desire a more penetrating analysis of some of the data presented; he may speculate on the changes since 1936 (the closing date of most of the data considered in this work); he may disagree both with the point of view and with the conclusions of the authors. However, he cannot fail to respect their boldness and courage in handling without gloves a vital social and economic problem.

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BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

The Correspondence between Benjamin Harrison and James G. Blaine, 1882–1893 (American Philosophical Society, pp. xii, 314, $3.50), collected and edited by Albert T. Volwiler, consists of 349 documents, 335 of which are printed for the first time. Harrison appreciated the importance of his correspondence and was careful to have it preserved; Blaine was careless with his papers, seldom made copies of his letters, not infrequently lost or mislaid letters he received, and, in 1891, directed his secretary to destroy a large part of his voluminous correspondence. Consequently, by far the greatest number of the letters and telegrams printed in this volume are from the 75,000 documents which constitute the *Harrison Papers* in the Library of Congress. Of letters mentioned as having been written by one of these men to the other, the editor found either the originals or copies of all but six. This correspondence, supplemented by the editor's adequate notes, throws light upon the history of the period, and in particular reveals the interesting Harrison-Blaine relationship which was at first marked by warm cordiality and later by extreme coolness. There are many references to such problems of the day as the Bering Sea dispute, tariffs and reciprocity, Hawaii, Pan-Americanism, and foreign service personnel. One is impressed with the extent to which Harrison kept the State Department under his control and with the fact that he was practically his own Secretary of State for months during Blaine's illness in 1891, and carried the Secretary's "knapsack and musket" during shorter periods of his illness. The failure of Blaine to give suitable expression of his appreciation for these favors was one of the causes of the growing coolness between these two markedly different men.—CLAUDIUS O. JOHNSON.

Defense for America (Macmillan Co., pp. xx, 205, $1.00), edited by William Allen White, is a timely volume containing articles by fifteen eminent

Americans, including an introduction by the editor, on the protection of the United States against dictatorship from abroad. In addition, some of the recent statements of President Roosevelt on defense are reprinted. The central theme of the book is the defense of this country through aid to the Allies (France had evidently not yet capitulated when most of the articles were written). The minimum position is that stated by Lewis W. Douglas that assistance to the Allies at least will give this country a little more time to place its own defenses in shape. The most extreme interventionist is Rupert Hughes, who, under the caption "The Allies are Ourselves," declares that to permit the defeat of England is to commit harakiri. While millions of men on the other side of the ocean are trying to defeat Hitler, he continues, some of us over here "go on playing the fool, the lethal fool, and saying, 'We must keep out of the war.'" There are a variety of suggestions as to how the United States should aid in the defeat of Hitlerism. Quincy Wright says that the industry of the United States must supply enough planes to make up for the Allied deficiency. President Conant of Harvard advocates, among other things, "the release to the Allies of Army and Navy airplanes and other implements of war, without impairing our own security." President Seymour of Yale favors granting credits or making gifts to the Allies. Grenville Clark would withhold from them no "secrets" in arms and planes. In general, the trend of the book is toward substantially greater help than is now being given to Great Britain by the United States, but the most common assumption appears to be that the methods employed are to be short of war.—BENJAMIN H. WILLIAMS.

A recent addition to the National Municipal League's series of popularly written pamphlets on municipal government reform is Arthur W. Bromage's *Manager Plan Abandonments* (National Municipal League, pp. 45, $0.25.) In this pamphlet Professor Bromage has digested some previous studies made by himself and others, and presented some new data to explain why twenty-five communities have shelved council-manager government. The analysis of these few "black sheep" situations is presented by the League so that "it may serve as a guide to citizens in manager cities who are interested in keeping the manager plan and in making it work." It is pointed out that the abandonment experience, although almost too negligible to justify trend conclusions, shows more likelihood of reversion where the trial period is short, or in certain regions like New England, or in the larger cities. The three chief reasons for abandonments are: (1) defects in the charters or departures from accepted types of manager-plan organization; (2) extraneous circumstances, particularly the economic stress of the depression; and (3) political conditions prejudicial to the success of the plan. While one instance was found where managerial mal-

feasance was directly responsible for failure, and several other instances where the council refused to appoint a properly qualified manager, outstanding records of excellent management were found in contrast to the presence of political factors. The moral of the story is that administration is not the whole of city government; that friends of the manager plan cannot with impunity stop or stay their political activities once the manager charter has been adopted; and that citizen groups must exercise eternal vigilance at councilmanic elections.—C. C. LUDWIG.

The Law of Public Housing (University of Wisconsin Press, pp. ix, 150, $1.75), by William Ebenstein, is concerned chiefly with the constitutionality of this recent extension of the scope of the welfare clause and use of the power of eminent domain for purposes for which the others of the "trinity of sovereign powers" have been used for many years. Dr. Ebenstein analyzes in detail the arguments in the briefs and in the opinions in the leading cases in a fashion to which we are accustomed in law review writing; the two central chapters of his monograph make a neat case study in the way in which the courts feel their way around when a new social need is brought before them. In a prefatory chapter, the author expounds briefly what that need is; in an equally brief concluding chapter, he suggests what some European countries have done about it. The author sees that housing is but a part of the larger problem of planning, and notes the way in which the courts have treated various applications of the police power for planning. This little monograph supplements, rather than duplicates, a conspectus of the detailed provisions of enabling legislation for public housing, such as that recently issued by the Legal Committee of the National Association of Housing Officials, or Mr. Leon Keyserling's monograph sponsored by the National Resources Planning Board. Those who wish a quick review of the developments in housing during the year will turn, as in previous years, to *The Housing Yearbook, 1940* (National Association of Housing Officials, pp. vii, 296, $3.00), edited by Coleman Woodbury. The chief of each of the leading federal housing agencies—F.H.A., U.S.H.A., F.S.A., the Federal Home Loan Bank Board, and the Central Housing Committee—tells what his agency has done. The bulk of the book, as last year, is devoted to the most striking development of the year, the great proliferation of local authorities, with a brief note on the achievements of each: 294 local authorities are listed, as well as 56 unofficial associations. Seldom has the country seen so quick a spawning of a special type of semi-autonomous government agency, in so uniform a national pattern, in response to a new proffer of grant-in-aid; the current *Yearbook* records the intervention of one state, New York, with a system of loans and grants. In short, here is material crying for the attention of

the student of political science, which more adventurous spirits like Mr. Ebenstein should explore.—CHARLES S. ASCHER.

The New Deal experiments in agricultural policy have inspired a continuous flow of studies on farm economy. Almost every theoretical formula has been employed in one or another of these works. An application of the Leninist interpretation of the Marxian theory in regard to the capitalist crisis in agriculture is the basis of Anna Rochester's *Why Farmers are Poor* (International Publishers, pp. 317, $2.75). The author seeks to gather the subsidiary issues together, by means of short analyses, and thereafter to apply to the entire problem the propositions of the dialectical formula. Miss Rochester views the problem essentially from the vantage of price economics. Subsistence farming is referred to as peasant farming, and, therefore, as contrary to the American way of life. Her main emphasis on the production side relates to the clash between mechanized and non-mechanized techniques, with its inevitable effects upon industrial, middle, and tenant farmer groups. On the distribution side, the food and textile middle-men receive credit for much of the decreased share of farmers in the food and clothing costs of non-agricultural America. But there is no venom against these men, with their high salaries, bonuses, and dividends from investments; they are but part of a system in which these crises naturally occur at regular intervals. She places some reliance upon the coöperative movement, but admits that bigness here tends to produce an economic attitude not unlike that of large private corporations. Miss Rochester's analysis is crisp and her comments, supported by a multitude of data, reveal a knowledge of agricultural economics; the weakness of her study is that of any formalistic work.—CORTEZ A. M. EWING.

Rocky Mountain Politics (University of New Mexico Press, pp. vi, 304, $3.00), edited by Thomas C. Donnelly with a foreword by Arthur N. Holcombe, while primarily of interest to specialists in the field of American parties and government, supplies a useful addition to the growing literature of American political regionalism. Its eight authors—Frank H. Jonas, Roy E. Brown, Jeanne E. Wier, Henry J. Peterson, Lawrence H. Chamberlain, Newton C. Abbott, Thomas C. Donnelly, and Waldo E. Waltz—in their separate chapters set out to discover and relate the complexity of economic, social, and political factors influencing political processes in Utah, Colorado, Nevada, Idaho, Wyoming, Montana, New Mexico, and Arizona. Unity in the comprehensive scope of this survey is introduced by having each contributor follow a pattern of attention to such pertinent details as historical antecedents; geography, climate, and natural resources; occupational, religious, ethnic, and population factors; transportation and communication; educational facilities and standards;

means for the formation and expression of public opinion; significant pressure groups; relations between capital and labor; the structure, functioning, and quality of state and local government; laws affecting nominations, elections, corrupt practices, and civil service; party organization, third party movements, and political leaders; voting habits over the years, and the impact of the depression and the New Deal upon them. There are occasional vivid snap-shot glimpses of the actual practices in contrast to the theory of the political process, together with brief efforts to analyze this customary dichotomy. That each author, with the exception of Dr. Jonas, teaches at present in the state of which he writes may explain a tendency both toward circumspection and toward eulogy in certain evaluations. An introductory summary by Professor Donnelly draws the wealth of miscellaneous information into an interpretative synthesis.—RAYMOND GOSS MCKELVEY.

Inspired by the desire of its author, Edward A. Fitzpatrick, for "public understanding of the problem of raising the public armed forces . . . to defend this country, *Conscription in America* (Milwaukee: Richard Publishing Co., pp. xi, 153, $1.80) is a somewhat lyrical piece of personal pamphleteering that has a slight current interest for persons seeking a brief, undocumented, non-technical exposition of how the selective service system of the World War operated. Written before the recent controversy over peace-time conscription rocked Congress, it is not a discussion of that issue. For background, the author, draft administrator of Wisconsin, 1917–1919, traces the sorry lessons learned from the notorious inequities of Civil War conscription, explains the philosophy, content, and local-board administration of the 1917 Selective Service Law, and pleads for a similar plan in a new emergency. The last chapter argues that "control, not the conscription, of resources is the way to victory for armed forces." Charts outline the selective service organization in the World War, the probable organization in a new emergency, and the author's "suggested organization for coördination of national resources and mobilization of industry in time of major war." While plumping for conscription as more democratic than the volunteer system of army recruitment, the author hastens to reject all notion of conscripting capital and labor as "un-American" . . . "What a nation might require in its death throes, or on the point of annihilation, is not a thinkable proposal for the first year of a war—of any conceivable war." In fairness to the author, be it remembered that these nostalgic sentiments were penned before the collapse of France and the commencement of the Battle of Britain.—RAYMOND GOSS MCKELVEY.

The fourth edition of James T. Young's *The New American Government and Its Work* (Macmillan Co., pp. xviii, 1118, $4.00) is a complete revision

of this well-known textbook. The revision was planned in order "to describe the broad and substantial changes in both the methods and policy of our government which have recently occurred." In general, Professor Young has followed the outline of previous editions. Many changes, however, have been made. A chapter on New Deal legislation has been added; "government personnel" has been made the title of a chapter; and other materials have been reworked and condensed. Issue may be taken that court decisions and the legal approach to the study of government have been stressed to too great an extent. It is refreshing, however, to find topics considered that are frequently omitted in general texts. An example of this is the priority of federal over state taxes. It would have added to the convenience of the volume had the citation of cases to the official reports been included in the table of cases. The volume is particularly noteworthy for its presentation of divergent points of view on controversial questions, of the new concept of civil rights, and of the effect of recent changing conditions both at home and abroad on the governmental system.—ROBERT S. RANKIN.

In *Town Government in Maine* (Portland, Me.: Historical Records Survey, pp. 206), the Works Progress Administration has made another valuable contribution to research in government. The volume sets forth a part of the results of the major project of publishing inventories of all extant town and city records in Maine, explaining gaps in those records, and indicating how these records reflect the functions and inter-relationships of the individual town offices. Part A (27 pages) contains essays on the three most common types of municipal government in Maine—towns, plantations, and village corporations. Part B contains essays on various offices common to these municipalities. The essays are based primarily on Maine statutes, and exclude consideration of cities and city offices. The volume is a preliminary edition. Fuller discussion of the above material, inclusion of more offices, and consideration of relevant court decisions and attorney-generals' opinions are planned for the final edition.—CHRISTIAN L. LARSEN.

The campaign of the League of Women Voters in support of the merit system is continued by the publication of Betsy Knapp's *The Awkward Age in Civil Service* (Washington: National League of Women Voters, pp. 114, $0.40). "The purpose of this pamphlet is to answer some of the questions that arise when members of the League of Women Voters come to grips with the patronage issue. It is designed to be useful both to those who already have some knowledge and information about personnel problems and to others who, for the first time, are becoming actively concerned about improvement of the American public service" (p. 2). Miss Knapp

argues that patronage is not essential for the maintenance of political parties; considers the relationship between the merit system and democracy; cites the obstacles to the advance of the system; and describes briefly the operation of personnel systems. The information presented will not be news to the personnel technician, but the booklet, written in a persuasive, simple, and non-technical style, constitutes an effective piece of pamphleteering in support of the cause so enthusiastically espoused by the League.—LUELLA GETTYS.

"America is suffering from only one disease—capitalism." This is the conclusion reached by Leo Huberman in his brief survey of American economic history since the Civil War, *America Incorporated* (Viking Press, pp. 251, $2.75). The book is divided into two parts. The first recounts graphically the development of the American system of corporate enterprise and its attendant monopolistic tendencies which caused its downfall in 1929. In the second part, the author reviews and evaluates the New Deal program for relief, recovery, and reform. While approving it on the whole, he concludes that it cannot succeed, because it is based on merely a revolution in ideas, not a revolution in economics. Unfortunately, the author fails to outline fully the blueprint for his new order. Production for use rather than for profit apparently will be its cornerstone. The book should be useful as a presentation in popular style of the socialistic indictment of American capitalism.—JOSEPH E. KALLENBACH.

Our Racial and National Minorities (Prentice-Hall, pp. 877, $5.00, school, $3.75), edited by Francis J. Brown and Joseph S. Roucek, and first published in September, 1937, came from a second printing in November, 1939. The editors have compiled material from thirty-nine other experts with such skill that the volume is not just another collection of readings, but rather a coherent presentation of the history, contributions, and present problems of our minorities. After a short summary, five hundred pages are devoted to brief discussions of forty-one American minority groups. A consideration of "Race and Cultural Conflicts and Education" follows. The concluding section deals with "Cultural Pluralism" and shows a trend toward it. The final chapter on "National Minorities in Central Europe," written by Joseph Chmelar is now historical, for it was written when Austria, Czechoslovakia, and Poland were nation-states. The presentation is that of educational sociology. Of special interest, however, to political scientists are Chapters XVIII, XIX, and XX, in which are found data on immigration and naturalization. The usefulness of the book for a class text and as a basis for further research is increased by a bibliography of sixteen pages. There is also an adequate index.—MONA FLETCHER.

FOREIGN GOVERNMENT AND POLITICS

Empire of the Seven Seas; The British Empire, 1784–1939 (Scribner's, pp. xi, 391, $3.50.) is the second volume of Mr James Truslow Adams's history of the British Empire, the first having appeared some two years ago. The volume is an admirably balanced survey in the best Adams literary tradition, covering developments in Great Britain and the Empire, especially the Dominions, and paying due attention to external forces which influenced the course of imperial development. A volume of this character must be judged by its objective and its interpretation rather than by absolute canons of historical scholarship. Mr. Adams obviously has in mind an American public familiar only in a vague way with the history of the Empire. This consideration, as well as limits of space, have perhaps led him on occasion into over-simplification (e.g., in his accounts of constitutional developments). But the defect, if such it is, mars little the total impression which a book of this character is designed to give. The volume is also something of a tract for the times, and asides pointing the moral occasionally creep in (e.g., pp. 166 and 356–8). But Mr. Adams is too sound a historian to trim his history to teach a moral. Throughout, the interpretation is in the best liberal tradition—freedom within the Empire had broadened slowly down from precedent to precedent despite stupidities of statesmen and obstruction of vested interests. The Empire-Commonwealth of today is a community based on common loyalities, a common culture, common ideals. Mr. Adams perhaps underestimates the material bases of imperial unity, such as British naval supremacy in the North Atlantic, the Mediterranean, and the Indian Ocean, and the value of sheltered markets in a world of shrinking international trade. These, no less than sentiment and common ideals, have been and still are important influences in preserving the Empire-Commonwealth as a *Kriegsverein*.—R. A. MacKay.

In the minds of students of English constitutional history, the German scholar, Ludwig Riess, is associated with the earliest competent attempt, through monographic writing devoted not to chronological accounts but to studies of particular points or problems, to subject to critical examination the work, and even the basic assumptions, of the great early authorities like Stubbs and Gneist. Riess chose to deal with mediaeval parliamentary elections. His monograph on the subject appeared in 1885. It is now made available in English translation by Dr. K. L. Wood-Legh under the title *The History of English Electoral Law in the Middle Ages* (Cambridge University Press, pp. xii, 108, $2.25). The Riess text does not make easy reading. The style is labored; and the attitude toward matters that are still controversial is over-confident, and even arrogant. At the same

time, the views and their influence cannot be ignored by the serious student. From this point of view, Dr. Wood-Legh deserves nothing but praise. The translation is excellent. A formidable task of checking references has been performed thoroughly; and judicious additional notes have brought the text abreast with the results of recent researches. The editing of the little volume displays scholarship at its best.—R. K. Gooch.

When the future chronicler of the constitutional history of India wants to know the scheme of government which prevailed in that country from 1921 to 1937, he will find useful material in A. Appadorai's *Dyarchy in Practice* (Longmans, Green and Co., pp. xiv, 431). In his well-organized survey, in eleven chapters, Dr. Appadorai considers the introduction, the workings, and the "achievements" of the dyarchy. To most Indians it represented a plan which put side by side two opposite forms of government—one, self-rule in "transferred" subjects; the other, arbitrary rule in vital "reserved" subjects—one, democracy, the other, autocracy. To expect it to work smoothly was like expecting a square peg to fit in a round hole. Admitting that dyarchy was not a success, the author asserts that it was of some educative value to political India. He has shown considerable industry in wading through a mass of official books and reports, but he makes no reference to Indian newspapers and magazines of the period, reflecting the Indian popular reaction to the deceased dyarchy.—Sudhindra Bose.

In her monograph, *The American Department of the British Government, 1768–1782* (Studies in History, Economics, and Public Law, No. 466, Columbia University Press, pp. 181, $2.25), Margaret Marion Spector examines the newly created colonial department largely responsible for the conduct of the American war. Mrs. Spector has gone to the original sources and has done a thorough piece of research. She gives an interesting account of the difficulties in establishing a third Department of State over the jealous objections of the two existing Secretaries and pays particular attention to the personalities and work of the important, if obscure, Under Secretaries. This study is a genuine contribution to the history of the period, and will interest not only specialists in colonial history, but also students of public administration.—Morley Ayearst.

INTERNATIONAL LAW AND RELATIONS

The Royal Institute of International Affairs has made another valuable contribution to scholarship in the field of international affairs by the publication of *Nationalism* (Oxford University Press, pp. 360, $3.00). Like other recent studies published under the auspices of the Institute, *Na-*

tionalism is a report of a study group, consisting in this case of nine scholars with Professor E. H. Carr as chairman, whose work was examined and criticized by several experts before publication. The study appears to have been undertaken to discover the meaning of nationalism. However, the scope of the book is broader than the title indicates. Two-thirds of the book is devoted to a description of the origin, nature, and development of national states in Europe, Asia, and America, which serves as a background for the analysis of contemporary nationalism and the consideration of its meaning and significance in the modern world. Because of the apparent difference between nationalism of the nineteenth and twentieth centuries, respectively, and between different forms today, it is sometimes argued that there are two distinct types of nationalism. One type is based on pride in national culture and aims to create political states on the basis of the national group; the other is characterized by aggressiveness on the part of a political group which exalts the state and aims at territorial expansion. The thesis of the study group is that the different forms of nationalism are two phases of the same phenomenon. Nationalism is defined as the "group symbol" or the "spirit of loyalty" to the nation which is the "political unit of the present stage of civilization." It is an emotional force which can be played upon by those seeking to use the power that comes with unity, for constructive or destructive purposes. It will persist so long as the nation is the political unit. If the nation should be superseded by another form of political group, a feeling of attachment to it, equivalent to nationalism, will undoubtedly develop. Hence war, which at the present time is so often attributed to aggressive nationalism, can be avoided only by harmonizing the inherent conflict between nations. The book went to press before the outbreak of the present war. The conclusions reached by the study group with reference to the effect of economic and political circumstances on the feeling of nationalism are substantiated by the intensification of that feeling, not only among the belligerents, but among neutral nations as well. In the reviewer's opinion, no better study of the complex subject of nationalism has yet appeared.—HOWARD B. CALDERWOOD.

Few aspects of recent international affairs have been the subject of more bitter criticism than the famous, and ill-fated, "appeasement" policy of Great Britain. So bitter has been the criticism in this country that many Americans have tended to minimize or overlook entirely the manifold complexities of the situation faced by those who have been at the helm of British foreign policy in recent years. For such persons, and indeed for all serious students of the background of the present war, Professor E. H. Carr's admirable little volume, *Britain; A Study of Foreign Policy from the Versailles Treaty to the Outbreak of War* (Longmans, Green and Co., pp.

156, $2.00) is indispensable reading. Since Professor Carr was the First Secretary of the Foreign Office during the larger part of the period covered in this volume, he combines the detachment of the scholar with the insight of one who has faced and dealt with problems and situations as they arose. His account is far from an effort to exculpate the government from all responsibility. On the contrary, it is keenly critical. But the criticism is tempered by a sober analysis of the difficulties presented by alternative policies. Professor Carr believes that the root of Britain's recent difficulties lay in two things: the changed position of Britain in the post-war world and the effects of the democratization of foreign policy. Egged on by the press and by the Opposition, Britain had "continued to protest, condemn, and admonish without regard for the increasing ineffectiveness of these gestures and the growing resentment which they provoked." In the extended analysis of the reasons for, and the futility of, a policy of condemnation not backed by a resolute will and powerful armaments, one may read much that is dismally reminiscent of recent American foreign policy. It is to be hoped that the lesson will be read with profit.—GRAYSON L. KIRK.

In *British Diplomacy in China, 1880–1885* (Cambridge University Press, pp. xi, 327, $4.50), E. V. G. Kiernan has presented a carefully documented account of certain phases of the international relations of the Chinese Empire during the early eighties. While written from the point of view of the principal problems confronting British policy in China during this period, the study contributes much to an understanding of the activities of other Western powers with respect to China between 1880 and 1885. In commenting on the statement, "China's difficulty is every foreign nation's opportunity," made sixty years ago by a minister to China, Mr. Kiernan says: "On the whole, this maxim was acted on by all the Western Powers." The evidence given by the author in substantiation of this characterization of power politics in China refutes the generally accepted opinion that the Western nations had no political designs on China until the middle nineties. In his first chapter, he describes the personalities and tasks of the Western diplomats in China during this period. In subsequent chapters, he gives a day-by-day account of the negotiations between the Powers concerning the different segments of China. His final chapters consist of general discussions of different aspects of the period—as "China's Army and Navy," "The Structure of China," etc. These chapters are not altogether satisfactory; furthermore, much of the material has been well covered in previous works. It is in the field of diplomatics that the author has made his contribution. While he has used the chief sources in the Western languages, he would have made his study more comprehensive if he had consulted sources in Chinese and Russian. It might also be

pointed out that if the writer had paid more attention to his method of presentation, the reader would have less difficulty in following his exposition. There is an adequate bibliography, and an index.—WILLIAM BALLIS.

A chronicle of the implantation, operation, and liquidation of American "imperialism" is difficult to achieve with anything like objectivity and impartiality. It is a rare individual who can stand straight and sturdy before the winds that blow from the Right and the Left and give credit and blame where they respectively are due. We consequently should value books which accomplish such chronicling. Such a one is Ludwell Le Montague's *Haiti and the United States, 1714–1938* (Duke University Press, pp. xiv, 308, $3.00). The volume is a chronological study of the relations between the two countries, with some natural and desirable concentration on the later period, although the author consciously endeavors to treat adequately those periods previously slighted. Proportions are very well handled, and an intelligent and refreshing impartiality of treatment characterizes the whole. There is hence an unfavorable attitude (in varying degree) toward Secretary Blaine, Admiral Caperton, the political superiors of the marines, and others, some of whom admitteedly must be painted a dark gray. At the same time, ample credit is given for the constructive achievements of the American occupation and other commendable aspects and phases of the relations. In a few portions, notably those dealing with claims and neutrality, there is a slight tendency for details to obscure the main thread of the story, but the broader view of Haitian problems and the larger aspects of relations have in general been admirably maintained. The bibliography is inclusive and has been well used. One notes the omission, however, of the third volume of Perkins' study of the Monroe Doctrine, the invaluable Bemis-edited series of *American Secretaries of State*, and the earlier Jones volume on the area, *Caribbean Interests of the United States*. The useful annual reports of the (British) Corporation of Foreign Bondholders, while they have nothing directly on Haiti, would have contributed valuable background material on the Dominican Republic and other neighboring units. Despite its few and unimportant defects, the study is an altogether worth-while contribution.—RUSSELL H. FITZGIBBON.

In these days when the old European order has been destroyed once more by the hammering blows of a great war and when another peace settlement eventually must be made, it is doubly useful to have at hand an impartial and fully documented account of all phases of the ill-fated Versailles settlement. To this, the Carnegie Endowment has contributed for many years through the publication of its great series of studies concerning the World War. The most recent of these studies is *Reparation at the*

Paris Peace Conference from the Standpoint of the American Delegation (2 vols., Columbia University Press, pp. 1148 and 833, $15.00), by Philip Mason Burnett. This publication consists of an interpretative essay of approximately 150 pages, followed by the texts of more than 500 documents, more than half of which have not previously appeared in any printed form accessible to the public. The author is especially emphatic in his conclusion that the famous Article 231 of the Versailles Treaty was not inserted for the purpose of passing a moral judgment upon Germany's responsibility for the origin of the war, but merely "as a basis for the primary statement of her theoretical financial liability." The subsequent distortion of this article by German writers and politicians was made possible because "the article was compounded of unreality and imprecision." Although the introductory essay is brief and legalistic, it is closely reasoned and complete. Together with the massive documentation, it constitutes the most important single source of information on the reparations settlement.—Grayson L. Kirk.

The Cost of the World War to Germany and to Austria-Hungary (Yale University Press, pp. xv, 192, $2.50) consists of Part I contributed by Dr. Leo Grebler and Part II by Professor Wilhelm Winkler. It is a supplement to the Carnegie Endowment's monumental *Economic and Social History of the World War*, a project begun in 1918 and now comprising some 150 volumes published in a dozen countries and a half-dozen languages. In the editor's preface, Professor Shotwell reviews the history of this stupendous undertaking, shows how the present volume fits into the project, and points out that his own recent book, *What Germany Forgot*, was originally begun as an introduction to the book here under review. Dealing exclusively with the four years of the war, these two studies survey the effects of actual hostilities upon the Central Powers. Because he lacked access to all of the literature on the subject, Dr. Grebler attempts "to develop a broad outline . . . on the basis of sufficient though sometimes imperfect evidence." In three chapters he successfully portrays Germany's economy and industry before, during, and at the end of the war; and he arrives at a balance sheet showing that the direct financial costs amounted to nearly twenty-two billions of pre-war gold dollars, or almost two years' national income. Professor Winkler approached his subject rather differently. After setting forth the direct and indirect costs of the war, and also "forfeited gains," he concludes that for Austria-Hungary the costs "were about five times as great as the annual national income, and almost four-fifths as great as Austria-Hungary's national wealth." The volume is well written, has an index, and, most important of all, offers valuable data never before available in the English language.—Jacob Van der Zee.

An effective and socially desirable technique for stabilizing the national economy and paying for the war, according to J. M. Keynes in *How to Pay for the War* (Harcourt, Brace and Company, pp. vi, 88, $1.00), is to withdraw a portion of current purchasing power from the market in the form of compulsory savings or blocked deposits. On a heavily graduated scale, this would affect all income groups, but principally those above £250. Two advantages of this method are: (1) each income level would defer present consumption in accordance with principles of justice, and (2) rights to deferred consumption after the war, another name for the national debt, would be distributed among a wider group instead of being concentrated as usual in the hands of capitalists. Other aspects of Mr. Keynes' plan include a general capital levy after the war, protection from reduction in current consumption of those now living at a minimum standard, governmentally fixed civilian consumption, universal family allowances in cash, and an "iron ration" for certain articles of consumption to prevent price shifts. (In his proposals for 1940–41, however, the Chancellor of the Exchequer rejected the central idea of compulsory savings, relying chiefly on voluntary savings and increased taxation to pay the cost of the war—thereby making inflation inevitable.) Even Mr. Keynes' critics will admit the stimulating character of his ideas. To the reviewer, his desire "to snatch from the exigency of war positive social improvements" represents a worthy objective, while his plan as a whole offers guarantees of relative economic stability during a period of great stress.—VERNON A. O'ROURKE.

When confronted with serious national economic depression, governments may follow one or both of two courses. One course, says J. E. Meade in his *The Economic Basis of a Durable Peace* (Oxford University Press, pp. 192, $2.00), emphasizes an increase in tariffs, export subsidies, wage cuts in exporting industries, and depreciation of the national currency. That these moves, designed to increase exports and decrease imports, lead to deterioration of international relations is well buttressed by the experience of the past ten years. The second course may rely primarily upon the re-expansion of a nation's internal demand for goods. Done simultaneously in all countries, there would follow an increase in both the exports and imports of each country and, coincidentally, an improvement in international relations. "The moral may, therefore, safely be drawn that the adoption of proper principles of policy to meet trade depressions is one of the chief economic bases of a durable peace." Meade is convinced that such "proper principles of policy" can be put into effect only under the supervision of some form of international organization. In fact, he assumes for the purposes of this book that the next peace settlement will

produce some international organization to which the member states must hand over certain economic questions for decision and administration. An international currency, variable exchange rates, international trade, international capital movements, exchange controls and clearing agreements, international population movements, and colonies and raw materials supplies are some of the matters which must be treated collectively if economic and political peace is to be established. The difficulty of the task will be greatly aggravated by the growing diversity of the economic structures of various national states, which complicates the problem of determining the basic principles for a just and efficient international economic organization. Meade spends little time trying to prove the dependence of peace upon economic readjustments—he takes this for granted. Practically the entire book concerns itself with the economic duties of the future international organization. It would be interesting to know to what degree the author's picture of post-war world economics would be altered by the emergence of a German-controlled Europe.—VERNON A. O'ROURKE.

Two of the earliest books to appear after the outbreak of war in September, 1939, in which the events leading up to the war are described are *Through the Diplomatic Looking-Glass* (University of Oklahoma Press, pp. 239, $2.00), by Oliver Benson, and *Europe: Versailles to Warsaw* (H. W. Wilson Co., pp. 456), by Ronald S. Kain. The first of these books is a narration of diplomatic events after Munich, based upon the documentation which appeared in newspapers. The author disclaims any intention to do more than relate the facts as they were known and understood at the time the war began. It is a well-written story which provides the reader with the contemporary picture of the immediate origins of the war as portrayed in the materials available in the United States at the time. Mr. Kain's book is a volume in the Reference Shelf Series. It is a brief survey of post-war history based on such materials as newspapers, *Foreign Policy Reports*, and periodicals like *Foreign Affairs* and *Current History*. A separate chapter is devoted to each European country. Liberal use is made of direct quotations from the speeches of statesmen and comments of publicists and historians. A useful chronology and a bibliography, composed principally of popular rather than scholarly books and articles, are included.—HOWARD B. CALDERWOOD.

Professor Walter C. Langsam has recently published a fourth revised edition of his well-known text, *The World Since 1914* (Macmillan Co., pp. 1024). The chief innovation in the new edition consists of a final hundred-page section in which the author has attempted to digest world happenings from 1935 through the outbreak of the European war in 1939. The bibliography has been enlarged until it now covers some seventy closely-

printed pages. An attempt to compress so much material into a few pages of text has required the author to limit himself to a recital of the bare facts, leaving little or no opportunity for analysis or judgment. Necessarily, too, Professor Langsam has been forced by the same limitations to state as facts many things about which a certain amount of controversy still rages, e.g., his statement with reference to the Munich crisis that "the Soviet Union would aid [Czechoslovakia] only on condition that France did so first and that the League declared Germany the aggressor." This is a fair statement of the legal obligation of the Soviet Union, but there is some reason to believe that the Soviet position did not rest entirely on its technical obligations. These, however, are minor points and do not detract in any way from the general utility of what will undoubtedly continue to be a standard work for student use.—GRAYSON L. KIRK.

Most of the countries now at war have hastened to formulate and publish, for various purposes, their diplomatic justifications or explanations for being so engaged. *The French Yellow Book; Diplomatic Documents, 1938–1939* (Reynal and Hitchcock, pp. xliv., 419, $2.50) presents the most important documents on Franco-German relations from the Munich Agreement to September 3, 1939, the date when France declared herself to be in a state of war with Germany. The volume is twice the size of the British *Blue Book* covering the same period and gives a fuller account of the Czech and Polish crises. While selected to justify French policy and action, the documents retrace very fully the tensions and relaxations, the diplomatic thrusts and counterthrusts, that led inexorably to the outbreak of war. Some of the dispatches are full of dramatic and human interest. Through them all runs an underlying current of fatalism which leads one to think that the French diplomatists had long since come to their conclusions as to the nature and ambitions of the Nazi régime.—HAROLD W. STOKE.

In his *United States Policy toward China* (Duke University Press, pp. 321, $3.50), Paul H. Clyde has performed the useful service of bringing together a selection of documents dealing with America and China. The better known documents, such as the Cushing treaty and the Hay notes, are necessarily included. But it is the inclusion of much less-known material, such as "Tsang Kwoh-fan on China's Foreign Policy," that makes the volume especially interesting for the teacher and the student. The book keeps within the range of materials indicated in the title, and within the limits set the selection is almost uniformly satisfactory. One exception that may be noted is the portrayal of the Taft-Knox policy exclusively through the medium of the neutralization note. Omissions, and consequent faulty interpretations, are inevitable, however, in a book of read-

ings such as this, and the number of them here is exceedingly limited.—HAROLD M. VINACKE.

POLITICAL THEORY AND MISCELLANEOUS

In what he willingly concedes to be "somewhat of a mixed bag," the Master of the Rolls, Lord Wright of Durley, has published in his *Legal Essays and Addresses* (Cambridge University Press, pp. xxxv, 441, $3.75) his lectures on Sinclair v. Brougham, Public Policy, the Liesbosch Case, the Northwestern Utilities Case, Gold Clauses, Some General Aspects of Law, Some Developments of Commercial Law in the Present Century, The Common Law in Its Old Home, and The Study of Law; two articles, "Ought the Doctrine of Considerations to be Abolished from the Common Law?" and an *in memoriam* essay on Sir Frederick Pollock; and reviews of the American Restatement of the Law of Restitution, Wigmore's Judicial Proof, and Williston on Contracts. Although the final product lacks evidence of the deep historical perspective of a Holmes or a Frankfurter, or the cleverly turned phrases of a Cardozo, each essay is interestingly written and all points are clearly made. Equivocation is lacking. The answer to the question, Ought the doctrine of consideration to be abolished?, is a resounding "yes," the author favoring substitution of the civil law test "whether there is a serious and deliberate intention to enter into obligations enforceable at law" (p. 287). He is equally outspoken in favor of the civil law concept of "common fault," stating that "probably no one today would defend the doctrine of contributory negligence" (p. xviii). Possibly this is indicative of the current state of opinion in England; although Chief Justice Marshall regularly used this form to state his most disputed premises, certainly the same cannot be said of this country. Lord Durley regrets the tendency of present-day English courts to ignore American developments, which he attributes in part to the undue multiplication of "case law" in America, which "an English lawyer is not likely to master" (p. 205). The discussion of the American Restatements discloses a tendency to over-simplify the problems involved, due no doubt to a lack of acquaintance with the many snags that have turned up in the course of this undertaking. Although few political scientists will care to read the entire text, there is much of interest both because of its quality and of its authorship.—J. A. C. GRANT.

In his *Two Frontiers of Freedom* (Scribner's, pp. 420, $3.50), John Corbin attempts to show that democracy has always been the arch-enemy of freedom and that only two alternatives to democracy are possible—autocracy as developed in the present European dictatorships and a republic such as the Fathers of the Constitution provided for the United

States. A republic is held to be the best form of government and most suited to progress and stability because it is based on the "resolution of the two forces of individual liberty and collective control." Corbin holds that the European democracies have not survived because their fundamental concept of society centers around the family as the chief social unit, and thus authoritarianism forms the background of European political thought. One frontier of freedom is national in character, and involves the economic problems of economic depression and unemployment; the other is international, and concerns itself with the basis of an enduring world peace. The greater portion of the book is devoted to an historical analysis of the institutions of American government, both as to structure and as to underlying philosophy. The picture of Washington and the early Fathers is particularly enlightening, revealing a painstaking and persevering application to and interpretation of the documentary evidence, and also a rare appreciation and evaluation of the problems of government, both in structure and in policy, of the earlier periods of American life. The author places rather too much confidence in checks and balances as necessary concomitants of governmental stability and efficiency and regrets the failure of the Fathers to supply an added check by providing for a responsible ministry. The last section of the book, devoted to an analysis of the international set-up, is weak. The author becomes theoretical, philosophical, and at times even pedantic. The League of Nations is described as an "imbecile institution" suffering from the same impotence and structural deficiencies as those found in the American Articles of Confederation. He suggests abandonment of the League and formation of a sort of Atlantic Federation, with the creation of a superpower about the nature of which he is vague; and the reader is left in doubt as to what practical steps the author would take for a new international order if he had the power to create it. It can, however, be said that the discussion in the national field is a distinct contribution to the history of American institutions and of their development in a changing world.—ELIZABETH A. WEBER.

Familiar material brought up to date characterizes *Labor Policy under Democracy* (University of Colorado Studies, Series C, Vol. I, No. 1, pp. 130, $1.00), by Clay Packer Malick. The experience of Great Britain, republican Germany, Australasia, and the United States with industrial disputes is described in an effort to set forth a problem which all democratic institutions face, not simply on a local or national, but also on an international, scale. There is simplicity and directness to Professor Malick's discussion which gives great compactness to his volume. He covers the same areas already covered in greater detail by such students as Evelyn Burns, C. W. Pipkin, John B. Andrews, J. P. Chamberlain, and Dorothy

Sells. No doubt it is worth covering again; and no doubt it will be covered innumerable times in the future as this problem is met, tinkered with, and solved in many different ways by many different governments. In a way, as Professor Malick points out, the problem of industrial disputes is a test of democracy. It is not the only test; and, as he says, some other problems of capitalism dwarf the problem of industrial relations to "insignificance" (pp. 8–9). But it is a test nevertheless, and a typical test in an industrial community. It presents all the varieties, dangers, and intricacies of other problems which confront democracy; and failure to solve it may lead, as it has led elsewhere, to dictatorship. Its fundamental social significance, therefore, is hardly to be doubted; and no doubt a fresh presentation of familiar material by Professor Malick in concise, readable, and sensible terms fulfils a need in a country like the United States where the problem is by no means widely understood. At the same time, the work has distinct limitations. It is a formal book, a book written from documents. It is not a discussion of the forces within unions, or within factories or management offices, which really create this problem of "industrial relations" and decide whether formal machinery of any kind will work. This is the real meat of the problem, and the work of men like Pigors, McKenney, and Armstrong is by far the more valuable contribution to a discussion of collective bargaining. Strikes are not always symptomatic of employee discontent. They can also be symptomatic of a struggle between rival factions for power within a union, and the movement toward collective bargaining does not always have the social significance or effects which Professor Malick imputes to it. A more realistic analysis of unionization would have been in order and would have produced an original contribution to the subject. A second criticism is that although this is a study of "Labor Policy under Democracy," certain democracies, now or recently existing, are neglected. France is omitted. Switzerland is omitted. The Scandinavian countries are omitted. Not even Canada is treated. Obviously, countries like Canada and Switzerland, with their federal form of government, can offer us illumination in a way that Great Britain or republican Germany cannot. A final criticism is that the international aspects of collective bargaining have also been omitted. While the materials of the International Labor Office have been drawn upon for a discussion of conditions within Britain, republican Germany, and Australasia, the relationship of the International Labor Organization to the possibilities of collective bargaining within the various countries has not received so much as a sentence of comment.—SMITH SIMPSON.

In a monograph on *Campoamor, Spain, and the World* (University of Toronto Press, pp. 152, $1.50), Ronald Hilton, assistant professor of modern languages in the University of British Columbia, disregards the

lack of recognized distinction in his subject, and emerges with a thesis, pretty successfully supported, that Campoamor's "utterly neglected prose works constitute a highly valuable document for the intellectual life of nineteenth century Spain." Better remembered for his poetical works than for his active rôle in the politics of Spanish monarchy, and despite his extreme dislike for all equalitarianism and democracy, this representative of the Spanish *aufklärung* must be put down, for the middle and influential part of his life, as an enlightened constitutionalist though an anti-republican. Officially a Catholic, anti-clerical and anti-Thomist in his views, in the main a follower of the school of Montesquieu, this southerner formulated a theory of Nordic superiority, not too scientific and not unlike that of Gobineau, apparently without having read either Gobineau or Gumplowitz. These vivid chapters, with their ample quotation from the prose of Campoamor, seem to the reviewer to add a degree of proper correction to the estimates of this vigorous if mercurial thinker. His was a versatile and at times a prophetic mind, even if not generally so judicious as that of his critic in these pages.—WALTER SANDELIUS.

Professor Alfred G. Buehler's *Public Finance* (McGraw-Hill Book Co., pp. xx, 846, $4.00) is a revised edition of a text originally published four years ago. Although the present work follows the basic outline of the first edition, much new material has been incorporated. Also additional chapters have made possible separate and more extended treatment of such subjects as regulatory taxation, federal and state grants, accounting and financial reporting, and budgetary procedure. The work is exceedingly comprehensive and detailed. There is an abundance of factual material. The treatment is highly descriptive and thoroughly objective and impartial. The author shows adequate appreciation of historical perspective and of foreign experience and practice. There are no obvious errors, although in discussing federal budgetary procedure (pp. 215–216) the author unintentionally conveys the erroneous impression that the Congress implements the President's budget through one report of the Committee on Appropriations and one bill. An unusual feature of the text is the space devoted to the administrative aspects of public finance. Some teachers may object to this on the ground that such subjects as government reorganization, which the author discusses at some length, properly belong in political science texts and should not be incorporated in the already too bulky public finance treatises. The work is characterized by a certain amount of unnecessary recapitulation and overlapping discussion. The reviewer also thinks that the very important subject of war financing does not receive sufficient consideration. These criticisms do not detract from the high quality of the text. It deserves continued recognition as one of the standard texts in public finance courses.—MARTIN L. FAUST.

In *Man's Adventure in Government* (Iowa City: Midland House, pp. x, 228), Ethan P. Allen attempts the prodigious task of summarizing and interpreting the development of Western governmental institutions and concepts since the Stone Age. He sees these developments as "the struggle toward self-government." The chief defects of the book are inherent in the very nature and magnitude of the undertaking: assumptions insufficiently avowed, concepts and terms inadequately explained, great figures of history and philosophy identified sketchily or not at all, and sweeping conclusions stated without supporting evidence. The idea of "progress" underlies the entire discussion, but is not adequately treated as a concept or in relation to "social change." Spengler is mentioned briefly, but not Toynbee. The discussion of imperialism is inadequate. The style is often oratorical and homiletical rather than literary. Yet it must be noted that some of the chapters are very well done, particularly in view of the author's obvious intention to reach the layman or the beginning student. Even though Dr. Allen has attempted rather too much, this reviewer believes that his effort to popularize the study of government and its problems deserves encouragement. His book marks a somewhat halting step, by a social scientist, out of the ivory tower which Robert Lynd wishes us all to abandon.—Carlton C. Rodee.

"A poet-legislator's endeavor to shape history's course through closely related literary productions and political activities" is the subject of Alfred Jepson Bingham in *Marie-Joseph Chénier: Early Political Life and Ideas, 1789–1794* (Privately printed, pp. 210). Chénier desired fervently to use his plays and songs for the furtherance of the Revolution and was prominent in many efforts (some violent) to free the stage, its actors, and its authors from the shackles of royal and municipal despotism. Apparently he was not distinguished either for his political acumen or for any original contributions to political thought. As a disciple of Voltaire and a colleague of Condorcet in the Convention, he had unlimited faith in the spread of enlightenment to the masses. As a professed follower of Rousseau, he made efforts to secure a type of civic education suited to making republican citizens out of royal subjects. He was not the first *philosophe* (nor the last) to extract from the *Émile* the inspiration for a religion of patriotism, expressed in a program of national holidays, public honors, and military exercises. Evidently the violent delights of a revolutionary poet can have prosaic ends, for Mr. Bingham tells us that Marie-Joseph's post-revolutionary works are "predominantly in the field of literary criticism." —Eric Beecroft.

The gracious living of a more spacious day is recorded in *An American Democrat; The Recollections of Perry Belmont* (Columbia University Press,

pp. xvi, 663, $3.75). The book is attractive, interesting, scholarly, and has a charm all its own. Mr. Belmont is a very high type of American, and his life has spanned half of the nation's history. Coming of a family prominent in banking, diplomacy, naval affairs, and the opening of Japan to the Western world, Mr. Belmont touched politics at many points, but he was always primarily the great citizen. The book deals with statecraft, society, sport, the fine arts, and foreign travel. Some unusual points of view in our politics are very intelligently presented. The records of his family kept while the elder Belmont was U. S. minister to The Hague, 1853–1856, give an interesting picture of the Europe of that time. The attitude both of the Northern Democrat and of Victoria's England towards the government of Mr. Lincoln is vividly outlined. The work has mellowness and urbanity. Lord Dufferin said in 1885 that the world had become a bundle of nerves, and that a disturbance in one quarter was immediately felt everywhere. This memoir shows that assertion becoming increasingly true.—Paul Miller Cuncannon.

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AMERICAN GOVERNMENT AND PUBLIC LAW

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NEBRASKA

Legislative council. Expense accounts of state officers and employees in Nebraska, by R. V. Shumate. Lincoln, 1940. 32 p. (Report no. 11.)

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New York (City) Board of statutory consolidation. Colonial charters, patents, and grants to the communities comprising the City of New York. Comp. by Jerrold Seymann. New York, City Hall, 1939. 612 p. $15.00.

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University of North Carolina, Chapel Hill. Dep't of history. Jeffersonian democracy in South Carolina, by John Harold Wolfe. Chapel Hill, 1940. 308 p. (James Sprunt studies in history and political science.)

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Agricultural and mechanical college, Stillwater. As our neighbors see us; readings in the relations of the United States and Latin America, 1820–1940, comp. by T. H. Reynolds. Stillwater, 1940. 317 p. $2.50.

Tax commission. Trends in state and local taxes in Oklahoma from 1931 to 1939, inclusive. Oklahoma City, 1939. 7 p. graph. (Know your government series, no. 7.)

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——— *Bureau of municipal research and service.* Islands and medial strips in traffic control. Eugene, 1940. 26 p. (mim.)

——— The charter and ordinances of the city of Salem, Oregon. Mimeographed with the assistance of the work projects administration . . . Eugene, 1939. 500 p. (mim.)

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Council on public administration. Research in county government and administration at the University of Virginia. Manager government in Albemarle County, Virginia. Richmond, 1940. 6 p. (mim.)

League of Virginia municipalities. Tax collection system usual for real estate and personal property in Virginia municipalities. Richmond, 1940. 8 p. (mim.) 25c.

——— Comparative salary statistics for various positions in Virginia cities. Richmond, 1940. 12 p. (mim.) 25c.

WASHINGTON

University of Washington, Seattle. Bureau of governmental research. (This bureau has issued about fifty "reports," ranging from six to about fifty pages in length, some mimeographed, some printed. Some of the titles are: A budget manual for Washington municipalities; Description of the prevailing system of raising and distributing current school revenue; Local government finance and democracy; The local improvement problem; Municipal accounting; Municipal audits; The power of the counties to levy excise taxes; Salary trends in Washington cities; Selected municipal occupation taxes; Summary of proceedings of the Fourth annual institute of government. . . .)

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(Milwaukee county) *County clerk.* Financial summary for the decade ending December 31, 1939. Milwaukee, 1940. 115 p.

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Sketch of the operations of the Belgian army. Washington, Belgian Embassy, 1940. 2 p. (typewritten.)

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Royal commission on dominion-provincial relations. Report. Ottawa, King's Printer, 1940. 3 v. $1.00.

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A bibliography on Finland. Washington, Finnish Legation, 1940. 21 p. (mim.)

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Auswärtiges Amt. Britain's designs on Norway. . . . Full text of white book no. 4. Berlin, 1940.

——— Documents on the events preceding the outbreak of the war. New York, German Library of Information, 1940. 549 p.

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Authorized English translation of the White Paper issued by the Norwegian government on April 14th, 1940. The German aggression on Norway. London, H. M. S. O., 1940. 7 p.

GUATEMALA

Ministry for foreign affairs. Continuation of the White Book controversy between Guatemala and Great Britain relative to the convention of 1859 on territorial matters: Belize question, by L. L. Anderson. Guatemala City, 1940. 67 p.

NORWAY

Norwegian legation, Washington, D. C. The Legation has issued four speeches or statements, in mimeographed form, as follows: by King Haakon on July 8; by the Foreign minister, on February 17, 29, and March 14, 1940.

NETHERLANDS

Netherlands legation, Washington, D. C. The Legation has issued a mimeographed protest against the invasion of The Netherlands, with a map showing the area of the destruction of Rotterdam by Hitler's aëroplanes.